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RESTRICTIVE TRADE PRACTICES COMMISSION

REPORT

Concerning the Manufacture, Distribution and Sale
of Ammunition in Canada

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DEPARTMENT OF JUSTICE
OTTAWA

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RESTRICTIVE TRADE PRACTICES COMMISSION

REPORT

CONCERNING THE MANUFACTURE, DISTRIBUTION AND SALE
OF AMMUNITION IN CANADA

COMBINES INVESTIGATION ACT

Ottawa
1959



REstrictive TRADE PRACTICES COMMISSION

Minutes of the

Chairman

C. Rhodes Smith, Q.C., M.A., LL.B., B.C.L.
Chairman

A. S. Whiteley, B.A., M.A.
Member



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RESTRICTIVE TRADE PRACTICES COMMISSION

Ottawa

February 3, 1959

Honourable E. Davie Fulton, P.C., Q.C., M.P.,
Minister of Justice,
Ottawa.

Sir:

I have the honour to submit to you herewith the report of the Restrictive Trade Practices Commission dealing with the manufacture, distribution and sale of ammunition in Canada.

The matter was brought before the Commission by the submission of a statement of the evidence obtained in the inquiry by the Director of Investigation and Research under the Combines Investigation Act and has been dealt with in accordance with the provisions of sections 18 and 19 of the Act.

Evidence and argument in regard to the Statement of Evidence were heard by the Commission in Montreal between November 17 and 21, 1958. In these proceedings, T. D. MacDonald, Q.C., Director of Investigation and Research, appeared with Mr. R.I. Milner, Combines Investigation Officer, and Messrs. J.F. Chisholm, Q.C. and P.M. Laing appeared on behalf of Canadian Industries Limited, accompanied by Messrs. J.C. Asselin, Q.C., B.I. McGreevy and P. Daviault, Legal Department, Canadian Industries Limited.

Yours faithfully,

(Sgd.) C. R. Smith

C. Rhodes Smith
Chairman

CONTENTS

	Page
CHAPTER I INTRODUCTION	1
1. Reference to the Commission	1
2. Hearings and Witnesses	2
3. Allegations	5
4. Position Taken by Canadian Industries Limited with Respect to the Allegations	7
CHAPTER II MANUFACTURE AND DISTRIBUTION OF AMMUNITION IN CANADA	13
1. Definition of Ammunition	13
2. Canadian Industries Limited as Sole Manufacturer in Canada	14
3. Channels of Distribution	17
4. Terms of Sale	19
5. Volume of Sales of C.I.L. Ammu- tion	21
6. Changes in Number of Distributors of C.I.L. Ammunition, 1952 to 1956 . . .	26
7. Manufacture of Private Brands of Ammu- tion by Canadian Industries Limited .	37
8. Efforts of Woodward Stores Limited to Obtain a Private Brand of Ammu- tion	39

	Page
CHAPTER III DISTRIBUTION POLICY OF CANADIAN INDUSTRIES LIMITED WITH RESPECT TO AMMUNITION.	47
1. Selection of Distributors	47
2. Temporary Modification of Ammunition Distribution Policy, 1956-57	51
3. Applicants Rejected by Canadian Industries Limited as Distributors of Ammunition	56
4. Rejection of Peterborough Guns Limited as Distributor of C.I.L. Ammunition	59
CHAPTER IV TARIFF PROTECTION OF THE AMMUNITION INDUSTRY IN CANADA.	65
1. Position of Canadian Industries Limited	65
2. Reliance of Canadian Industries Limited on Tariff Protection	69
CHAPTER V REASONS OF CANADIAN INDUSTRIES LIMITED FOR NOT ADOPTING FREER SYSTEM OF DISTRIBUTION	81
1. Attitudes of Wholesalers and Retailers	81
2. Canadian Industries Limited Considers it is the Best Judge of the Most Effective Means of Distributing Ammunition.	86
3. General Line Wholesalers Considered Most Effective Type of Ammunition Distributor	89
4. Canadian Industries Limited Does Not Favour Distribution of Ammunition outside Hardware, Sporting Goods and General Stores	89
5. Wider Wholesale Distribution of C.I.L. Ammunition Would Tend to Increase Some Costs.	92

	Page
CHAPTER VI APPRAISAL OF MANUFACTURING POSITION AND DISTRIBUTION POLICY OF THE AMMUNITION DIVISION OF CANADIAN INDUSTRIES LIMITED.	93
1. Canadian Industries Limited as Sole Canadian Manufacturer of Ammunition	93
2. Policy of Canadian Industries Limited in Controlling Outlets for Ammunition	97
3. The Case of Peterborough Guns Limited	101
CHAPTER VII CONCLUSIONS AND RECOMMENDATIONS	105
A. General Conclusions.	105
B. Remedies	108

TABLES

		Page
I	Sales of Ammunition and Related Products by Canadian Industries Limited, 1952-57	23
II	Sales of Ammunition by Quantity, Canadian Industries Limited, 1952-57	24
III	Sales of C.I.L. Ammunition in Constant 1952 Dollars, 1952-56	25
IV	Percentage Increase of 1956 Sales Over the Sales for 1952	26
V	Regional Distribution of Direct Shipping Accounts, Ammunition Division, Canadian Industries Limited, 1952 and 1956	27
VI	Average Number of Ammunition Retailers per Direct Shipping Account, by Regions	31
VII	Distributors Arranged According to the Value of Ammunition Purchases from Canadian Industries Limited, 1952, 1956 and 1957	32
VIII	Number of New Distributors of Ammunition accepted by Canadian Industries Limited, 1952-57	53
IX	Imports of Ammunition (Non-Military) into Canada, 1950-58	67
X	Value of Imported Ammunition Sold by Canadian Industries Limited, 1952-56	68
XI	Comparison of Manufacturers' Selling Prices of Ammunition in Canada and the United States and Suggested Retail Prices (National Currencies)	72
XII	Difference between C.I.L. and U.S. Prices of Ammunition as Percentage of Tariff Rate of 22 $\frac{1}{2}\%$	74
CHART - Total Domestic Sales of Rim Fire, Centre Fire and Shot Shells for Years 1948-1958, Current Dollars vs. Constant 1948 Dollars		22

CHAPTER I

INTRODUCTION

1. Reference to the Commission

This inquiry was brought before the Commission by the Director of Investigation and Research who submitted a statement of the evidence obtained in the inquiry, dated February 26, 1958, in accordance with section 18 of the Combines Investigation Act, R.S.C. 1952, Chapter 314, which reads as follows:

"18. (1) At any stage of an inquiry,
(a) the Director may, if he is of the opinion that the evidence obtained discloses a situation contrary to section 32 or 34 of this Act, or section 411 or 412 of the Criminal Code, and
(b) the Director shall, if so required by the Minister, prepare a statement of the evidence obtained in the inquiry which shall be submitted to the Commission and to each person against whom an allegation is made therein.

(2) Upon receipt of the statement referred to in subsection (1), the Commission shall fix a place, time and date at which argument in support of such statement may be submitted by or on behalf of the Director, and at which such persons against whom an allegation has been made in such statement shall be allowed full opportunity to be heard in person or by counsel.

(3) The Commission shall, in accordance with this Act, consider the statement submitted by the Director under subsection (1) together with such further or other evidence or material as the Commission considers advisable.

(4) No report shall be made by the Commission under section 19 or 22 against any person unless such person has been allowed full opportunity to be heard as provided in subsection (2)."

Also in conformity with section 18, the Statement of Evidence was submitted at the same time by the Director to Canadian Industries Limited, against whom allegations were made therein.

2. Hearings and Witnesses

During the inquiry, hearings for the taking of evidence were held before Mr. Guy Roberge, then a Member of the Restrictive Trade Practices Commission, on March 6, 1957 in Vancouver and before Mr. A. S. Whiteley, a member of the Restrictive Trade Practices Commission, in Ottawa and Montreal. The following witnesses were examined at the places and on the dates indicated:

At Vancouver, March 6, 1957 -

At Ottawa, March 11, 1957 -

At Montreal. July 3. 1957 -

At Ottawa, February 3, 1958

Certain documents were received in evidence at the hearings and marked as exhibits. Written returns of information were made to the Director pursuant to notices issued under section 9 of the Combines Investigation Act, and other returns of a supplementary nature were made informally.

After considering representations from Canadian Industries Limited as to the date for a hearing to reply to the Statement of Evidence, the Commission, by an order dated March 18, 1958, fixed Monday, the 22nd day of September, 1958 at 10 o'clock in the forenoon, in a room in Postal Station "B", in the City of Montreal, as the date, time and place at which argument in support of the Statement of Evidence could be submitted and at which Canadian Industries Limited would be allowed full opportunity to be heard in person or by counsel, in conformity with section 18(2) of the Combines Investigation Act. In giving notice thereof, the Commission further informed Canadian Industries Limited that at such hearings the company would have the opportunity of calling any witnesses or of submitting additional documentary evidence. It later became necessary to grant an adjournment of the hearing until November 17, 1958. The hearing before the Commission was held in Montreal from November 17 to 21, 1958. The following appearances were registered:

T.D. MacDonald, Q.C. - Director of Investigation and Research.

R.I. Milner - Combines Investigation Officer.

J.F. Chisholm, Q.C. - for Canadian Industries Limited
P.M. Laing

The following members of the Legal Department of Canadian Industries Limited were also in attendance:

J.C. Asselin, Q.C.

B.I. McGreevy

Pierre Daviault

Before argument was heard by the Commission the following witnesses were examined and certain exhibits, numbered H-1 to H-18, were received.

S.J. Smart

General Manager,
Ammunition Division,
Canadian Industries Limited.

Miss B.H. Sanders

Co-director of the Canadian
Institute of Public Opinion and
Vice-President of Gruneau
Research.

T.O. Oliver

Founder and President,
Canadian Trap Shooting
Association.

C.L. Stuart

Assistant General Purchasing
Agent.
Canadian Industries Limited.

C.A. Gobeil

President,
Lewis Brothers Limited,
Montreal and Toronto.

B.F. Roussin

Senior Patent Agent,
Canadian Industries Limited.

J.D. Learmont

Sales Representative for Ontario,
Ammunition Division,
Canadian Industries Limited.

A.G. Elliott

Sales Manager,
Ammunition Division,
Canadian Industries Limited.

Henri Pinard

Sales Representative for Quebec
and part of Ontario,
Ammunition Division,
Canadian Industries Limited.

For purposes of clarity, reference in this report to evidence given at the earlier hearings for the taking of evidence will be made as follows: "Evidence, p. . . .". Reference to evidence given at the hearing before the Commission will be made as follows: "Hearing, p. . . .". Where "C.I.L." appears in this report it is an abbreviation for Canadian Industries Limited.

3. Allegations

In the Statement of Evidence the Director stated that the inquiry had arisen out of a complaint about the alleged refusal of the Ammunition Division of Canadian Industries Limited to grant distributor recognition to a wholesale distributor of guns and accessories. The following paragraphs in the Statement set out the allegations of the Director and his conclusions from the evidence:

"4. The purpose of this Statement is to review the distribution policies of the Ammunition Division of Canadian Industries Limited in the light of Section 2 of the Combines Investigation Act. Section 2 refers, in part, to mergers, trusts and monopolies which have operated or are likely to operate to the detriment or against the interest of the public, whether consumers, producers or others. A 'merger, trust or monopoly' is defined, in part, as meaning one or more persons

' (ii) who either substantially or completely control, throughout any particular area or district in Canada or throughout Canada the class or species of business in which he is or they are engaged,

5. The allegations against Canadian Industries Limited are that, enjoying a monopoly position and substantial tariff protection in the manufacture of ammunition in Canada, it has pursued a restrictive policy in the distribution and sale of such ammunition, whereby Canadian Industries Limited constitutes a monopoly which has operated and is likely to operate to the detriment and against the interest of the public and particularly that class of the public engaged or wishing to engage in the wholesale distribution of sporting goods and ammunition. . . .

135. In an industry or trade in which satisfactory alternative sources of supply are available, there should ordinarily be no substantial objection if an individual supplier selects his customers entirely in his own discretion. Persons to whom he refuses to sell have open to them alternative sources of

supply and their businesses will not suffer unduly. The fact, however, that such persons can find other sources of supply and sell the goods so obtained in competition with those of the supplier in question, will put a limit on the freedom with which such supplier can deal with persons who wish to be his customers. In other words, the refusal to supply qualified would-be customers is, generally speaking, a practical possibility only where the supplier enjoys a substantially monopolistic position.

136. Refusal, by the only practicable source of supply, to sell to a wholesaler in the appropriate line of business, is likely to have a serious detrimental effect upon that wholesaler. Such effect cannot, usually, be measured with quantitative precision. It is apparent, nevertheless, from the evidence contained in the previous chapters that inability to purchase ammunition on trade terms from Canadian Industries Limited was not only likely to damage the wholesalers to whom recognition was refused but must, in the ordinary course of events, necessarily have damaged them. Wholesalers in the appropriate lines are so affected as members of the public. They come within the words of Section 2 of the Combines Investigation Act which refers to situations which have operated or are likely to operate to the detriment or against the interest of the public whether consumers, producers or others. Such wholesalers are damaged, first, in respect of the profits they might - and in many cases obviously would - have earned by the sale of ammunition. They are also damaged by the effect upon their general business of not being able to handle a line ordinarily associated with such business. The general advantages of carrying closely related lines is [sic] widely recognized.

137. In addition to the detriment occasioned wholesalers who are denied access to C.I.L. ammunition, the general public also suffers, in a less direct but nevertheless real way, because the policy of restricting outlets interferes or is likely to interfere with the most effective allocation of resources. It is likely that certain of the wholesalers refused supplies could have contributed to the economy and efficiency of the distribution of ammunition and, beyond this, the restrictive policy may be said to have or be likely to have harmful results upon the allocation of resources throughout the entire manufacturing and distributive trades with which ammunition is associated.

138. The responsibility of a firm occupying a monopoly position not to discriminate unfairly in its distribution policies, if not accentuated, is at least pointed up where the monopoly position is enjoyed, as in this case, because of substantial tariff protection. While the tariff protection may be designed to benefit society, it does in fact benefit the company and the company has a duty not to abuse its specially privileged position.

139. It is therefore alleged that, by reason of the restrictive policies in the distribution of ammunition which are described in the previous chapters, Canadian Industries Limited constitutes, within the meaning of the Combines Investigation Act, a monopoly which has operated and is likely to operate to the detriment of the public, including the public at large, the public interested in the use of ammunition and the public interested in engaging in the business of wholesalers of sporting, hardware and other products ordinarily sold in the same distributive trades."

4. Position Taken by Canadian Industries Limited
with Respect to the Allegations

In response to a request by the Commission that, if possible, a brief stating the position taken by Canadian Industries Limited with respect to the allegations made by the Director be submitted prior to the hearing, counsel for Canadian Industries Limited sent a statement to the Commission outlining the position taken by the Company. This was as follows:

"1. It is denied that Canadian Industries Limited has pursued a restrictive policy in the distribution and sale of ammunition and it is asserted that its policy, based on years of experience, is to sell and continue to sell through the most efficient mechanism as much ammunition as possible to the consuming public throughout Canada.

2. It is denied that Canadian Industries Limited constitutes a monopoly which has operated or is likely to operate to the detriment or against the interests of the public.

3. It is denied that the public has suffered in any way from Canadian Industries Limited's policies in the distribution of ammunition.

4. The Ammunition Division of Canadian Industries Limited does not select its customers (wholesalers) entirely in its own discretion. Canadian Industries Limited considers primarily the needs of the market and of course the qualifications and suitability of the prospective wholesaler. Moreover it has set up what are generally accepted as appropriate categories of wholesalers. Every application receives careful consideration, for example Peterborough Guns, to determine whether the marketing of ammunition would benefit by the addition of another wholesale distributor in the area and in particular by the appointment of the applicant. The ammunition manufacturers in the United States and the manufacturers of high-quality hardware products in both the States and Canada normally use such a system and are subject to active competition. Another example such as the paint industry in Canada illustrates this point. Any prudent manufacturer whether in a 'substantially monopolistic position' [Statement, para. 135] or subject to active competition would normally select his wholesale outlets carefully to meet the current needs of the market and to provide for expansion. That is what Canadian Industries Limited's Ammunition Division does.

5. Ammunition forms a relatively small part of the business of most wholesalers. Whilst the addition of an ammunition line to a wholesaler's activities might *prima facie* appear attractive to him, it is unlikely that on a long term basis the absence of such a line would have a seriously detrimental effect upon that wholesaler. As an instance Western Distributors, who was appointed a wholesaler distributor of ammunition in 1956 without regard to the needs of the market and solely in line with the changed policy to meet the views of the Director, has already indicated that it may no longer wish to handle shot shells as it has found that under all the circumstances they have not proved for it a profitable item. On the other hand the acceptance of an additional wholesaler as an ammunition distributor without regard to the needs of the market would affect detrimentally the business of the existing ammunition wholesalers covering the same territory and [it] is far from obvious that such a wholesaler would earn profits except on the extremely short view. Canadian Industries Limited must look at the appointment of a new ammunition wholesaler from the viewpoint of its effect on the distribution of ammunition as a whole. If it appears that to engage the services of a certain wholesaler would improve or be likely to increase the effectiveness of ammunition distribution in a

particular area that wholesaler would normally be appointed and unless Canadian Industries Limited's judgment proves wrong that wholesaler would in due course benefit by the addition of that line to his business. Canadian Industries Limited recognizes the value to a wholesaler of carrying a wide range of related lines and that is why its policy contemplates appointing sporting goods wholesalers carrying a broad line of sporting goods as opposed to specializing in a few lines.

6. It is not clear what is meant by interfering 'with the most effective allocation of resources' [Statement, para. 137]. Canadian Industries Limited does not 'restrict' outlets but rather plans its distribution policy to suit the needs of the market in the different areas of Canada, adding wholesalers where needed and refusing applicants where not. It is further not clear what is meant by the allegation that Canadian Industries Limited's policy has 'harmful results upon the allocation of resources throughout the entire manufacturing and distributing trades with which ammunition is associated' [Statement, para. 137]. To describe Canadian Industries Limited's policy as 'a restrictive policy' [Statement, para. 5] gives a false picture based on one or two refusals to sell for sound commercial reasons, and ignores the fact that its policy is a carefully planned and applied commercial policy resulting from many years' experience of Canadian Industries Limited and other manufacturers and readily adaptable to meet new conditions and operating beneficially to the public interested in ammunition. The Director alleges that it is likely that certain of the wholesalers refused could have contributed to the economy and efficiency of the distribution of ammunition. But who is to judge this? Surely the management of Canadian Industries Limited with years of experience in the ammunition business is the best judge of the economic desirability of adding to the number of wholesale ammunition outlets in an area. Even the Director does not allege that all the wholesalers refused supplies could have contributed to the economy and efficiency of the distribution of ammunition. Does he imply that Canadian Industries Limited should wash its hands of any planned policy of ammunition distribution and accept the services of every wholesaler who comes along, however superfluous and unsound from a commercial viewpoint? Wholesale businesses are not always established on the basis of economic necessity or survival. Why should Canadian Industries Limited

jeopardize its carefully evolved distribution system and even the successful continuation of its ammunition business by subsidizing such firms to the extent of supplying them with ammunition in an attempt to keep them in business? Can the Director actually contemplate that Canadian Industries Limited with its vast experience in the distribution of ammunition has adopted a policy which will sell less ammunition than what he proposes?

7. It should be clearly understood that Canadian Industries Limited's present position as sole manufacturer of ammunition in Canada does not result from the tariff. The Canadian ammunition industry as such could not exist without the tariff, and the economics of the Canadian ammunition market have simply dictated up to this time that one ammunition plant is enough. If Canadian Industries Limited is in a monopoly position for ammunition manufacture as the Director alleges, it is an involuntary and accidental monopoly. Canadian Industries Limited as a manufacturer of ammunition in Canada is of course protected by the tariff as would be any other Canadian manufacturer of ammunition. If there were two or more manufacturers in Canada the unit costs of ammunition would undoubtedly rise and the tariff would be even more necessary if the Canadian ammunition industry were to survive. No evidence whatsoever has been produced to suggest that Canadian Industries Limited has abused its position as sole manufacturer by taking advantage of the tariff to charge high prices or market a poor quality product, and in fact Canadian Industries Limited has not done either. It is most misleading to talk of Canadian Industries Limited's 'specially privileged position' [Statement, para. 138]. No privileges, special or otherwise, attach to Canadian Industries Limited's position as sole manufacturer. If one may judge by the present inquiry, the reverse is true. Canadian Industries Limited was first to enter the ammunition industry in Canada and has held its leading position in the industry by sound and progressive business methods and without benefit of any special privileges whatsoever.

8. Canadian Industries Limited's method of selecting its wholesale distributors is described in Paragraph 139 as 'the restrictive policies in the distribution of ammunition'. This is not supported by the evidence and there is no evidence to show that Canadian Industries Limited's policies have operated to the detriment of the public whether consumers, producers or others.

AND CANADIAN INDUSTRIES LIMITED ASSERTS
AND WILL LEAD EVIDENCE:

1. THAT its position as sole manufacturer of ammunition in Canada exists without Canadian Industries Limited having engaged in any agreement, arrangement or controlling practices to attain or maintain such position.
2. THAT other manufacturers of ammunition from the U.S.A. surveyed the ammunition market in Canada but have not entered the field, presumably by reason of the limited volume of the market available and comprehensive coverage of the market by Canadian Industries Limited.
3. THAT its policy or method of distribution is aimed at supplying ammunition by the most effective and economical means to the consuming public throughout Canada and that such policy or method is satisfactory to and approved by the great majority of the wholesalers and retailers engaged in the distribution and sale of ammunition.
4. THAT its policy or method of distribution and sale of ammunition is substantially the same as that pursued by many reputable manufacturers in Canada and by the manufacturers of ammunition in the U.S.A.
5. THAT Canadian Industries Limited has never taken full advantage of the tariff applicable to ammunition and its ammunition prices have been reasonable, with its product ranking with the best produced in the world.
6. THAT the conclusions drawn by the Director from the data and tables contained in the Statement of Evidence are erroneous.
7. THAT other declarations in the Statement of Evidence are inaccurate; among others, with respect to Peterborough Guns and other refused wholesalers.
8. THAT the manner in which Canadian Industries Limited is carrying on its ammunition business has not operated and is not likely to operate to the detriment or against the interests of the public, whether consumers, producers or others.

9. THAT in order that the best quality of ammunition in all grades should be available to the consuming public at the most economical price, it is necessary that the volume of sales should be maintained at the highest possible level in order to take advantage of the benefits of mass production. Furthermore, that in order to achieve this it is necessary that ammunition be sold through the most effective channels of distribution with such orderly participation at the wholesale level as will provide the most adequate service to the retail outlets."

CHAPTER II

MANUFACTURE AND DISTRIBUTION OF AMMUNITION IN CANADA

1. Definition of Ammunition

The nature of the ammunition with which the inquiry is concerned is defined as follows in the Statement of Evidence:

"8. Ammunition for the purpose of this Statement may be defined as all small arms ammunition including shotgun shells, rim-fire and centre-fire cartridges for non-military uses. Generally speaking the rim-fire cartridges are the small cartridges (Evidence, p. 7), whereas centre-fire cartridges are the larger calibres (Evidence, p. 7).

9. The principal and best known example of rim-fire ammunition is the 22 calibre ammunition (Evidence, p. 115). The difference between rim-fire and centre-fire cartridges was defined as follows:

'A. . . . The distinction is that the composition that ignites the propellant powder is in the rim of the cartridge in one instance, and in the centre of the cartridge in a primer cup in the case of centre-fire ammunition.'

(Evidence, p. 115)

10. Mr. S. J. Smart, General Manager of the Ammunition Division of Canadian Industries Limited described the ammunition with which this Statement is concerned as sporting ammunition as distinguished from military ammunition (Evidence, p. 115). However, he pointed out that not all of this ammunition was used for sporting purposes:

'THE WITNESS: I would like to make another comment on the small arms ammunition. While we make what we call sporting ammunition in peacetime a portion

of that sporting ammunition is in fact, essential ammunition because it is used by the police forces of our country, by the farmers for pest and predator control, and it is used by the people in the far north literally for sustaining life. . . .'

(Evidence, p. 118)"

2. Canadian Industries Limited as Sole Manufacturer in Canada

The history of the Ammunition Division of Canadian Industries Limited was described as follows in the evidence of Mr. S. J. Smart, General Manager, to the Commission:

"A. 'Canadian Industries Limited and its predecessor companies have been in the ammunition manufacturing business in Canada since 1886. In that year Dominion Cartridge Company was formed and purchased a manufacturing site at Brownsburg, Que., where ammunition has been produced continuously ever since. In 1910, Canadian Industries Limited (then called Canadian Explosives Limited) purchased Dominion Cartridge Company which eventually became the Ammunition Division of Canadian Industries Limited. During more than 70 years the Brownsburg ammunition plant has been, except for two short periods, the only privately-owned factory in Canada producing ammunition. From approximately 1911 to 1916 Remington Arms Inc. operated a plant at Windsor, Ont. and from 1911 to 1920 Eley Bros. manufactured ammunition at Winnipeg, Man. It is presumed that both Remington and Eley decided after trial periods that the Canadian market would not support more than one ammunition plant and judged their ventures in Canada to be uneconomical.'

Canadian Industries Limited has been the sole manufacturer in Canada really because it was the first Company to establish itself in the ammunition manufacturing business in Canada. Subject to the two foregoing exceptions this status has continued through the years because potential competitors have probably

been deterred by the limited possibilities of the Canadian market from making the considerable investment necessarily involved in constructing a modern ammunition manufacturing plant.' "

(Hearing, pp. 33-34)

" 'At no time has Canadian Industries Limited taken steps to prevent competitors from entering or continuing the manufacture of ammunition in Canada, nor has it acquired interests in or bought out any other ammunition firms. In order to compete successfully with imported ammunition particularly from the United States, Canadian Industries Limited has constantly improved the quality of its product and modernized its manufacturing plant. Improved merchandising has been practiced to increase Canadian Industries Limited's share of the Canadian market and so reduce unit costs.

From a comparatively small operation at Brownsburg Canadian Industries Limited's ammunition plant has expanded to supply the growing needs of Canada's shooting public. In both world wars the Brownsburg plant played an outstanding part in Canada's defence production programme, providing small arms ammunition for the Canadian and allied governments. In round figures the output of the Brownsburg plant in World War I was 100 million rounds and the combined output in World War II of the Brownsburg plant and government owned plants supervised by Canadian Industries Limited's trained personnel (in Defence Industries Limited, Canadian Industries Limited's wholly owned subsidiary,) was 3 billion rounds. These figures represent approximately two-thirds of Canada's production of military small arms ammunition during the two wars, the other third being produced by government arsenals. That these wartime responsibilities were carried out satisfactorily is evidenced by a letter from the Canadian government on conclusion of the military small arms ammunition program, which is but one of the several congratulatory messages received from representatives of the Dominion and allied governments. It reads in part as follows:

"Since its establishment, shortly after the war began, Defence Industries Limited has produced approximately two-thirds of the small arms ammunition manufactured in Canada during that period. This in itself was an achievement of great magnitude, but in addition the quality of that production was consistently high and the cost gratifyingly low, all of which reflects the very efficient management which has been characteristic of the undertaking."

Since World War II Canadian Industries Limited, by making strenuous efforts in the sphere of sales promotion, particularly by fostering shooting clubs, has done much to develop the market for commercial ammunition in Canada. Furthermore by improving whenever possible the quality of its product and the merchandising of it, Canadian Industries Limited has increased its share of the Canadian ammunition market from approximately 65% 25 years ago to 95% or better today.

It is known that three or four years ago two major ammunition manufacturers from the United States, namely, Remington Arms Co. and The Olin-Mathieson Co. (Winchester-Western Division) made surveys of the Canadian ammunition market with a view to commencing manufacturing operations in Canada. There have been no evident developments following these surveys and it may reasonably be assumed that both companies came to the conclusion that the Canadian ammunition market did not justify their building ammunition plants in Canada.'

' Nevertheless, a company was earlier this year incorporated in Saskatchewan under the name Gevelot of Canada Ltd. for the declared purpose of manufacturing ammunition. This firm is understood to be controlled by Gevelot S/A, a well-known French ammunition manufacturer whose ammunition it currently imports into Canada. Press reports indicate that Gevelot of Canada intends to proceed with the erection of an ammunition plant in the near future with the intention of commencing manufacturing late in 1959 or in 1960 and in the meantime it has established warehouse facilities for the distribution of imported French ammunition. ''

" 'That there is nothing incongruous in the Canadian one-plant situation will be evident from a study of the list of privately owned ammunition plants throughout the world which will be submitted to the Commission. Even the 20 times greater market in the United States is supplied by only three plants, two producing full lines and one a partial line of ammunition. Other countries show a comparable pattern.' "

(Hearing, pp. 47-48)

The list of ammunition companies (Exhibit H-3) which Mr. Smart produced in evidence listed fifteen countries, including England, Holland, Norway and Spain, in which there is only one manufacturer of ammunition, and six countries, including Belgium, France, Italy, West Germany and the United States, in which there are two or more manufacturers. In some countries where there are several manufacturers one or more plants may produce a limited range of ammunition.

3. Channels of Distribution

The general pattern of distribution for C.I.L. ammunition is described as follows in the Statement of Evidence:

"13. Canadian Industries Limited sells ammunition, for resale, to hardware, sporting goods and miscellaneous establishments most of which are wholesale, some of which are wholesale and retail and a few of which are purely retail. The latter category appears to be an historical accumulation rather than part of the company's current policy. All these accounts are sometimes referred to herein as 'distributors' or 'distributor accounts'. Canadian Industries Limited also, apparently, sells direct to the Canadian and Newfoundland governments.

14. Mr. S. J. Smart, General Manager of the Ammunition Division of Canadian Industries Limited, indicated that there were approximately 10,700 outlets retailing ammunition at the present time including 4,024 hardware stores, 5,600 general stores and 721 sporting goods outlets (Evidence, p. 162).

15. Seasonal variations occur in the sale and distribution of ammunition with peak periods varying according to the level of distribution. Canadian Industries Limited regards April, May, June, July, August and September as peak sales periods. July, August, September and October are peak periods for the wholesaler and August, September, October and November appear to be the peak periods for retail outlets (C.I.L. Return of Information dated October 11, 1957 - p. 1 of Schedule 'G').

16. Fluctuations also occur in demand because of game conditions in particular areas for given years. This was referred to by Canadian Industries Limited in their Return of Information dated October 11, 1957 (p. 1 of Schedule 'G') as follows:

' . . . Because of uncertainties that are present each year which can affect all types of game in all areas in the country, the manufacturer, the wholesalers and the retailers must all be alert to see that supplies are available in areas where hunting conditions are favourable and conversely that stocks are not built up unnecessarily in areas where hunting is poor.

(C.I.L. Return of Information
dated October 11, 1957 - p. 1 of
Schedule 'G')"

In January of each year Canadian Industries Limited sends a circular letter to all recognized wholesale distributors outlining the terms and conditions of sale for ammunition to be in effect for the ensuing calendar year. The following paragraph was included under the heading "General" in the letter of January 2, 1957:

"We request your continued co-operation in our efforts to have the retail sale of ammunition directed into the hardware, sporting goods and general store group of outlets. Since these dealers are the logical source of ammunition for the consumer, we endeavour to develop their effectiveness by offering advertising and other promotional material. Sales to sub-distributors who, in turn, sell to unauthorized outlets, and all direct sales to the general public at wholesale prices,

deprive these legitimate dealers of business that is rightfully theirs. They deserve your loyalty and encouragement."

(C.I.L. Return of Information dated November 13, 1957)

4. Terms of Sale

Canadian Industries Limited offers the same terms and conditions of sale to all wholesale distributors of C.I.L. ammunition. Prices are quoted in carload and less-than-carload quantities, the price for the latter being 2 1/2 per cent higher than carload prices. A carload consists of 400 cases of ammunition or more and it was stated in evidence that the value of a carload might be about \$16,000, depending on the type of ammunition included (Hearing, p. 170). Canadian Industries Limited sells ammunition f.o.b. factory, Brownsburg, Quebec, but allows full freight cost on carload shipments to destination. On less than carload shipments the proportionate amount of the full carload rate is allowed.

Terms of payment are net 30 days but orders specifying delivery "At C-I-L's convenience" and where delivery is made before August 1 in any season are invoiced payable net 31st August. This latter procedure is used to encourage distributors to place orders early in the season and to allow Canadian Industries Limited to space its production so as to ensure that distributors are adequately stocked to meet seasonal demands from retailers.

An annual discount is also given to wholesale distributors who qualify. This annual discount is described in a return of Canadian Industries Limited as follows:

"Each wholesale distributor is eligible to qualify at the end of the year for a discount based on the total net invoice value (i.e. gross invoice value less applicable freight credit) of ammunition manufactured by C-I-L and sold to the distributor during such year. The scale of discounts for 1957 is listed below:

<u>If Total Purchases Equal or Exceed</u>	<u>And are Less Than</u>	<u>Discount Rate</u>
\$ 35,000	\$105,000	1%
105,000	175,000	2%
175,000	275,000	3%
275,000	425,000	4%
425,000	600,000	5%
600,000 and over		6%"

(C.I.L. Return of Information
dated November 13, 1957)

The Ammunition Division of Canadian Industries Limited issues two price lists. One entitled, "Prices to Jobbers" contains the carload and less-than-carload prices at which Canadian Industries Limited sells to recognized distributors. The other is entitled, "Retail Price Guide" and bears the following notice:

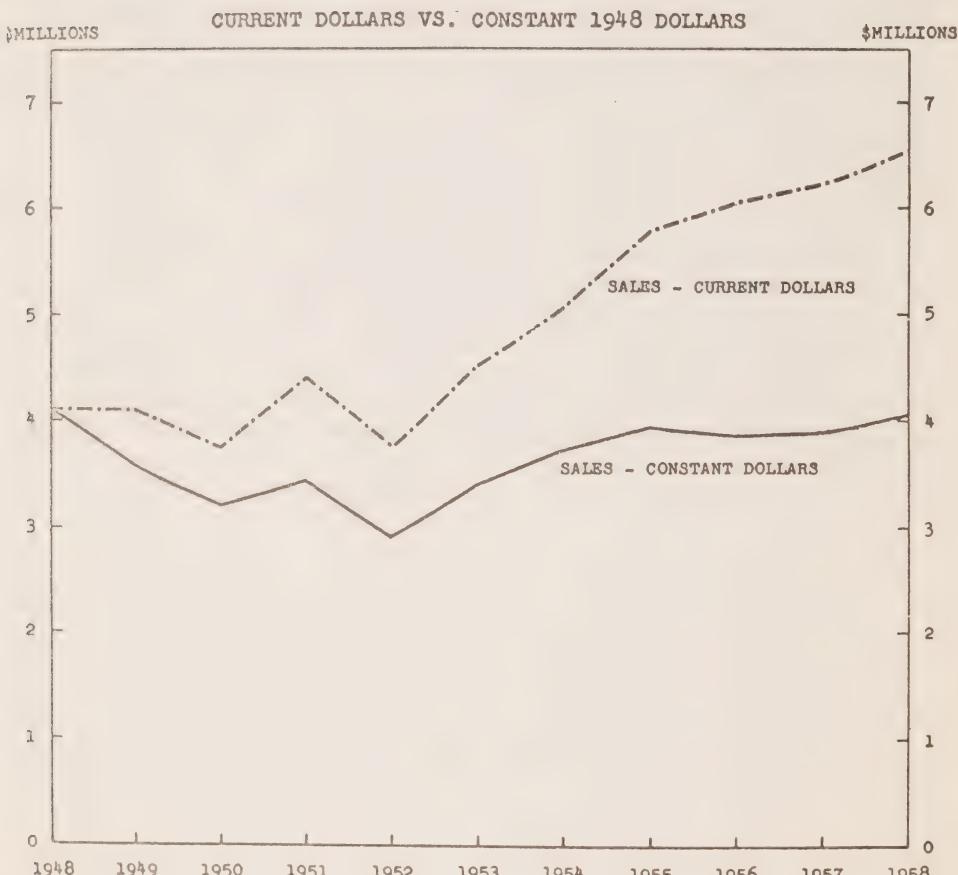
"This Price Guide is published solely to indicate the approximate prices at which C-I-L ammunition should generally be available to consumers in Canada. The prices shown include 10% Federal Sales Tax, but do not include any other Federal, Provincial or Municipal tax which may be applicable."

The "Retail Price Guide" is distributed to retail outlets both by direct mail and through wholesale distributors. The retail prices listed are based on the traditional mark-ups applying to ammunition in North America and allow for a mark-up of 25 per cent at the jobber level and a further mark-up of 33-1/3 per cent at the retail level. The mark-ups are based on the wholesale cost of carload shipments at destination, which includes federal sales tax and allowance for carload freight.

5. Volume of Sales of C.I.L. Ammunition

According to the evidence of Mr. S. J. Smart, General Manager, Ammunition Division, Canadian Industries Limited, sales of sporting ammunition in Canada reached a high level in 1948, following the removal of wartime controls and the easing in the supply of materials. The high level of sales of ammunition by Canadian Industries Limited in 1948 replenished the depleted stocks of wholesale distributors and retailers as well as enabling the immediate demands of the public to be met. Although the dollar volume of sales was higher in 1949 and 1951 than in 1948, this was due to increases in prices as the volume of sales in terms of 1948 dollars trend downwards after 1948, reaching a low point in 1952. The trend of sales of ammunition from 1948 to 1958 in terms of current dollars and in 1948 dollars is shown in the accompanying chart which was filed with the Commission on behalf of Canadian Industries Limited. The value of sales in each year has been converted to constant (1948) dollars by averaging the price increases for each class of ammunition and then dividing the sales of each class of ammunition by the accumulated price increase for each class of ammunition in each year. Sales for 1958 were projected for the full year on the basis of sales up to the time of the hearing.

TOTAL DOMESTIC SALES OF RIM FIRE, CENTRE FIRE AND SHOT SHELLS
FOR YEARS 1948 - 1958



(Exhibit H-6)

The sales (in current dollars) of the various classes of ammunition for the period 1952 to 1957 are shown in Table I.

Table I

Sales of Ammunition and Related Products by
Canadian Industries Limited, 1952-57

	<u>1952</u> \$	<u>1953</u> \$	<u>1954</u> \$	<u>1955</u> \$	<u>1956</u> \$	<u>1957</u> \$
Shot Gun Shells	2,206,185	2,593,867	3,018,828	3,472,768	3,477,730	3,344,536
Rim Fire Cartridges	1,005,317	1,174,941	1,269,842	1,373,092	1,450,694	1,653,689
Centre Fire Cartridges	563,630	751,03	755,131	935,137	1,108,384	1,224,189
Components and Other Items	<u>204,515</u>	<u>141,340</u>	<u>130,547</u>	<u>178,587</u>	<u>190,254</u>	<u>164,006</u>
Totals	3,979,647	4,661,751	5,174,348	5,959,584	6,227,062	6,386,420

Note - The above figures are gross sales values less export, inter-divisional and cash sales.

Sources: Exhibit M-2 and C.I.L. Return of Information dated February 13, 1958.

The quantities of sales of shot gun shells, rim fire cartridges and centre fire cartridges are shown in Table II.

Table II

Sales of Ammunition by Quantity, Canadian Industries Limited, 1952-57

	1952 1,000	1953 1,000	1954 1,000	1955 1,000	1956 1,000	1957 1,000
Shot Gun Shells	35,085	40,450	46,572	48,917	46,797	45,329
Rim Fire Cartridges	156,372	174,953	185,769	188,638	185,603	198,493
Centre Fire Cartridges	7,442	9,743	9,471	10,765	11,497	11,968

Source: C.I.L. Return of Information dated February 13, 1958

The sales of ammunition in constant 1952 dollars, as computed by Canadian Industries Limited, show the same trends as are indicated in Table II.

Table III

Sales of C.I.L. Ammunition in Constant 1952 Dollars, 1952-56

	1952 \$	1953 \$	1954 \$	1955 \$	1956 \$
Shot Gun Shells	2,206,185	2,491,707	2,899,931	3,106,233	2,962,291
Rim Fire Cartridges	1,005,317	1,113,688	1,203,641	1,197,116	1,199,912
Centre Fire Cartridges	563,630	687,023	690,248	791,148	874,120
Components and Other Items	<u>204,515</u>	<u>141,340</u>	<u>130,547</u>	<u>178,587</u>	<u>190,254</u>
Totals	3,979,647	4,433,758	4,924,367	5,273,084	5,226,577
% Variation of Total Sales from 1952	11.4%	23.7%	32.5%	31.3%	

Source: Exhibit H-5

It will be seen from the foregoing tables that in dollar volume shot gun shells constitute the most important single class of ammunition sold by Canadian Industries Limited. The sales of shot gun shells, for the years included in the above tables, have formed well over half of the total value of sales of ammunition.

The following comparison of the changes in dollar sales and in quantity of shot gun shells, rim fire cartridges and centre fire cartridges was made in the Statement of Evidence:

Table IV

Percentage Increase of 1956 Sales Over
the Sales for 1952

	<u>By Dollars</u>	<u>By Volume</u>
Shot Gun Shells	57.5%	33.4%
Rim Fire Cartridges	44.1%	18.7%
Centre Fire Cartridges	96.6%	54.5%

6. Changes in Number of Distributors of C.I.L.
Ammunition, 1952 to 1956

From information contained in the returns of information made by Canadian Industries Limited the Director made an analysis of wholesale accounts according to geographical location and volume of purchases. The Director concluded that the geographic distribution of C.I.L.'s direct shipping accounts did not bear any direct relation to the sales of ammunition to a particular area by Canadian Industries Limited. The following table was given in the Statement of Evidence in this connection:

Table V

 Regional Distribution of Direct Shipping Accounts, * Ammunition Division,
 Canadian Industries Limited, 1952 and 1956

	1952				1956			
	No. of Direct Shipping Accounts	% of Total	Purchases of C.I.L. Ammunition	% of Total	No. of Direct Shipping Accounts	% of Total	Purchases of C.I.L. Ammunition	% of Total
Maritime	44	31.66	\$ 346,418	10.67	40	27.21	\$ 465,504	8.93
Quebec	20	14.38	370,525	11.42	22	14.96	824,232	15.81
Ontario	31	22.30	595,811	18.35	32	21.76	1,095,895	21.03
Western Canada	** 44	31.66	1,933,659	59.56	53	36.05	2,826,147	54.23
Totals					139			147

* The expression "direct shipping accounts" includes all distributor accounts and, counted separately, subsidiaries and branches thereof of which C.I.L. ships to directly while billing to the main distributor account, but this total does not include Dupuis Frères Ltée., The T. Eaton Co. Limited, Hudson's Bay Co., Newfoundland Government, Simpsons-Sears Limited and Woodward Stores Limited nor are the dollar sales to these companies included.

** Including Yukon.

Source: C.I.L. Return of Information dated March 27, 1957 - Schedule "A".

Note: Certain arbitrary adjustments were necessary in order to establish the regional figures set up above. Where only one total was given for a C.I.L. distributor with branches or subsidiaries in more than one area it was necessary to assign the figure to one or the other areas. In this instance the total for Lewis Bros. Ltd. with two subsidiary outlets in the Maritimes, one subsidiary in Quebec City and its main office in Montreal is included as one total for Quebec; the total for Caverhill Learmont & Co. Ltd. with establishments in Ottawa and Montreal has been included with the Quebec total; and the total for The Geo. Taylor Hardware Ltd. with two branches in Quebec and six branches in Ontario is included in the Ontario

total. The sales to Cochrane Dunlop Hardware Ltd., with one branch in Quebec and seven branches in Ontario are included in the Ontario total. The Marshall-Wells Co. Ltd., has one branch in Ontario and eleven branches in Western Canada and this Company's purchases have been included in the Western Canada total. Walter Woods Ltd. have one branch in Ontario and three branches in Western Canada and the total purchases for this Company have been included with the Western Canada figures.

The Director referred to the fact that although the dollar volume of sales by Canadian Industries Limited to direct shipping accounts was about 60 per cent greater in 1956 than in 1952, and although the physical volume of sales of ammunition increased to a lesser but substantial extent, the number of direct shipping accounts was only eight greater in 1956 than in 1952. It will be seen from the above table that between the two years, the number of direct shipping accounts was reduced by four in the Maritimes and increased by two in Quebec, one in Ontario and nine in Western Canada.

Mr. S. J. Smart, in his evidence before the Commission, commented on the analysis of direct shipping accounts made by the Director. Mr. Smart referred to the chart showing sales in constant dollars, reproduced above, and pointed out that 1952 was an unusually low-volume year and when used as a base year accentuated the changes in subsequent years. Mr. Smart said:

"A. 'Between 1952 and 1956 the number of direct shipping accounts (that is, ammunition wholesalers and their branches to which Canadian Industries Limited ships direct) increased from 140 to 149. During these years six direct accounts were deleted while 15 new direct accounts were added for a net gain of 9 accounts. Additions and deletions to a wholesaler list are normal in a healthy economy. The low volume wholesalers with declining sales history tend eventually to discontinue carrying a line or simply to go out of business. At the same time new and growing organizations tend to balance their loss and so maintain an overall satisfactory service to the retail trade. For example the total purchases of ammunition in 1952 by the six direct accounts deleted between 1952 and 1956 amounted to \$23,000 or less than \$4,000 per account. In contrast the purchases in 1956 of the 15 firms added during the 5-year period totalled \$405,000 or an average of \$27,000 per account in terms of 1952 dollars. This represented a net gain in sales of approximately \$382,000 or an average of 34% of the total growth in ammunition sales between 1952 and 1956. In other words 1/3 of the total growth in sales accrued to newly appointed distributors and 2/3 to the established accounts.'

Our reasons for deleting the six distributors were as follows: In three cases the firms in question went out of business and the deletions were automatic and involved no decision on the part of Canadian Industries Limited. One of the other three firms ceased to buy ammunition when it got into financial difficulties and its credit was stopped. Another firm discontinued its wholesale business and operated solely as a retailer and the sixth firm had a long history of declining sales and was not performing any useful function as a distributor.' "

(Hearing, pp. 69-71)

Mr. Smart also referred to the comment made by the Director that the geographic distribution of Canadian Industries Limited's direct shipping accounts does not bear any direct relationship to the ammunition sales of a particular area. Mr. Smart said that the geographic distribution of ammunition wholesalers reflects the overall pattern that wholesaling has followed in Canada. The structure of the wholesale trade through which ammunition is distributed differs among regions in Canada and the number of ammunition wholesalers in various regions reflects the differing situations. For example, the average wholesaler in Western Canada is far larger than his counterpart in Central or Eastern Canada and serves a wider area, in some cases through a number of branches. In the Maritime Provinces, Canadian Industries Limited has a number of old accounts from the early days of the ammunition business (Hearing, pp. 75-78).

When the number of direct shipping accounts in each region is related to the number of retailers of ammunition, the average number of retailers per direct shipping account is shown to vary considerably among regions.

Table VI

Average Number of Ammunition Retailers per
Direct Shipping Account, by Regions

	Number of C.I.L. Direct Shipping Accounts	Number of Ammunition Retailers	Average Number of Retailers per Di- rect Shipping Account
Maritimes	40	958	23.9
Quebec	22	1,942	88.3
Ontario	32	2,177	68.0
Western Canada	53	<u>5,293</u>	<u>99.9</u>
Totals	147	10,370	70.5

Sources: Number of direct shipping accounts, see Table V above.
Number of ammunition retailers, Exhibit H-11.

As a number of wholesalers recognized by Canadian Industries Limited as distributors for ammunition operate branches which are accepted by Canadian Industries Limited as direct shipping accounts, the number of distributing firms is considerably less than the number of direct shipping accounts.

The changes in number of distributors (i.e. number of firms) and in the scale of ammunition sales by Canadian Industries Limited to individual firms were shown in a table included in the Statement of Evidence for the years 1952 and 1956. As information furnished by Canadian Industries Limited enables a similar analysis to be made for the year 1957, the table given in the Statement of Evidence has been expanded to include figures for 1957.

Table VII
Distributors Arranged According to the Value of Ammunition Purchases
from Canadian Industries Limited, 1952, 1956 and 1957

		Dollar Value of Ammunition Purchased						
		Up to 5,000 to	10,000 to	20,000 to	35,000 to	50,000 to	100,000 to	150,000 to
		5,000	10,000	20,000	35,000	50,000	100,000	200,000
1952	Total	5,000	10,000	20,000	35,000	50,000	100,000	200,000
Number of Distributors*	Distributors*	89***(1)	14	21	19	10	11	7
1956	Number of Distributors*	87***(2)	5	11	12	22	9	13
1957	Number of Distributors*	91**	8	11	23	8	14	7

* The use of the word "distributor" in this instance refers to the companies who have been recognized as such. It does not include branches or subsidiaries of these companies.

** These totals include departmental stores and the Newfoundland Government.

- (1) The actual number of companies recognized on January 1, 1952 was 87 but two companies were added early in 1952 and they are included in this total.
- (2) The total number of companies recognized at the end of 1956 was actually 88 but there are no sales recorded for one of these companies in 1956.

Sources: C.I.L., Return of Information dated March 27, 1957 - Schedule "C",
C.I.L., Return of Information dated February 13, 1958 - Item 6.

The following comments on this table were made in the Statement of Evidence:

"24. Between January 1, 1952 and December 31, 1956 the total number of distributors recognized by Canadian Industries Limited has increased from 87 to 88 (C.I.L. Return of Information - March 27, 1957 - Schedule 'C').

25. During this period Canadian Industries Limited extended recognition to eleven additional companies, six of which were wholesale hardwares, one was a wholesale hardware and retail hardware, two others were listed as distributing hardware but were not further defined as to whether they were wholesale or retail, one was a wholesale sporting goods distributor and one distributed wholesale auto accessories (the latter had three branches). Also four branches of three companies previously on the list dealing in wholesale and retail hardware were recognized for direct shipments (C.I.L. Return of Information - March 27, 1957 - Schedule 'A'). In the same period six companies were dropped from the recognized list of distributors and mergers resulted in the elimination of four other accounts. In 1956 there were 28 recognized distributors with purchases exceeding \$50,000.00 each. These companies accounted for purchases to the value of \$4,507,832.00 or 79.3 per cent of the total sales in 1956. For the year 1952 there were only 14 companies with purchases of ammunition in excess of \$50,000.00 each and these companies purchases had a value of \$2,314,655.00 or 66.2 per cent of C.I.L.'s total sales to distributors (C.I.L. Return of Information - March 27 1957 - Schedule 'C'). It would appear that the sales of ammunition are being concentrated into the hands of a number of large distributors.

26. The average sales to direct shipping accounts amounted to approximately \$25,100.00 in 1952 and approximately \$38,700.00 in 1956 (C.I.L. Return of Information - March 27, 1957 - Schedule 'C'). The corresponding averages for distributor accounts are \$40,153.00 and \$64,634.00. Price increases during this period have accounted for a substantial portion of this increase and this aspect has been referred to in the preceding pages."

In his evidence before the Commission, Mr. S. J. Smart presented the following analysis of information relating to size of distributors:

"A. . . .

' The third conclusion drawn from the statistics in the Statement of Evidence is that sales of ammunition are being concentrated into the hands of a number of large distributors (Paragraph 25). If anything the reverse has taken place. On a 'constant dollar' basis, the number of ammunition wholesalers whose annual purchases of ammunition amounted to \$50, 000 or over increased from 15 in 1952 to 26 in 1956 and the average annual purchases of firms in this category dropped from \$162, 500 in 1952 to \$142, 000 in 1956. If a concentration of business in the hands of large accounts were taking place, one would expect a decrease in the number of accounts in the \$50, 000 and over category and an increase in their average purchases. The opposite has happened.'

' . . .

' Only two of the eleven additional firms who reached the \$50, 000 or over bracket, in 1956, but not in 1952, were newly appointed distributors, that is appointed in 1952 or later. The remaining nine firms were distributing ammunition prior to 1952. Four of these nine firms had exceeded the \$50, 000 mark in 1951 although they dropped below that figure in 1952, the low volume year. This illustrates again that a comparison of two individual years can lead to false conclusions as wholesalers' purchases fluctuate from year to year dependent on year end inventory carryover at all levels, as well as hunting prospects and general business conditions.' "

(Hearing, pp. 78-80)

"' This means that of the 26 firms with ammunition purchases of \$50, 000 or over in 1956, 24 were Canadian Industries Limited ammunition wholesalers prior to 1952. In the period from 1952 to 1956 the wholesale ammunition business has not tended to concentrate in

their hands. The trend has been the other way. In the [year] 1956 these 24 firms represented 28% by number of Canadian Industries Limited's wholesalers and did 73% of the business. In 1952 these same firms represented 29% of Canadian Industries Limited's wholesalers and did nearly 80% of the business. Ammunition sales are much less concentrated at the wholesale level than are the overall sales to all wholesalers in Canada. The census figures show that in 1951 12% of the total number of wholesale firms in Canada accounted for 74% of the total wholesale business, more than double the degree of concentration found in the ammunition business.¹

...
¹ In paragraph 26 of the Statement of Evidence the average sales to direct shipping accounts are said to have amounted to approximately \$25, 100 in 1952 and approximately \$38, 700 in 1956. The corresponding averages for distributor accounts (separate firms) were \$40, 153 and \$64, 634. It is further stated that price increases during the period accounted for a substantial portion of the increase. The picture changes when one considers the corresponding figures in 1952 constant dollars and takes into account the fact that 1952 was an exceptionally low volume year. The best way to illustrate this point is to compare the 1951 sales figures with those in 1956. The average 1951 sales to direct shipping accounts amounted to \$27, 000 as compared to \$29, 300 in 1956 when constant dollars are used and when the number of direct shipping accounts is divided into the sales to direct shipping accounts only. In the Statement of Evidence it appears that the number of direct shipping accounts was divided into the total of sales to all distributors including department stores. This increase in average sales amounts to only 7% instead of 54% as indicated in the Statement of Evidence. In the case of distributors (separate firms) the average 1951 sales to these firms amounted to \$49, 400 as against \$54, 200 in 1956, a growth of not quite 10% in place of the 61% indicated in the Statement of Evidence. The trend in Canada since 1941 has been for the business done by the average wholesaler to increase in volume markedly. . . .¹

The increase in the price of ammunition, as the analysis of Mr. Smart indicates, has been the main factor in increasing the number of distributors whose purchases fall in the classes exceeding \$50,000. The fact that the number of firms purchasing in amounts over \$50,000 in 1956 was twice as great in that year as in 1952 (28 compared with 14) suggests less rather than greater concentration of business in the hands of a few firms. If the purchases of the five largest buyers of ammunition in 1956 as a percentage of total purchases are compared with the purchases of the same firms in 1952 it is found that the ammunition business of the five firms formed 41.2 per cent of the total in 1956 and 44.5 per cent in 1952. For 1957, the purchases of the five firms formed 37.4 per cent of the total.

7. Manufacture of Private Brands of Ammunition by Canadian Industries Limited

Canadian Industries Limited manufactures private brands of ammunition to a limited extent and only in the case of shot gun shells. For many years Canadian Industries Limited manufactured private brand shells only for the T. Eaton Co. Limited, and in 1955 a private brand of shell was first made for Simpkins-Sears Limited. In 1957 Canadian Industries Limited made a change in policy and undertook to consider applications from distributors wishing to purchase private brands of shells provided that a minimum order is placed for 200,000 shells in one gauge. If the minimum order is placed additional orders will be accepted for 100,000 shells in other loads.

The development of the policy of Canadian Industries Limited in regard to the manufacture of private brands was described, as follows, in the evidence of Mr. Smart in the inquiry:

"Q. Mr. Smart, have you had requests from other distributors for a private brand of ammunition?

A. Yes, we have had. We have had requests over a period of years actually and up to this year we refused them because our policy in respect of private brands was to make only for firms that were national in scope. We have made a private brand for Eatons for many many years, long before the time of my association

with the division. They were extended from coast to coast and there was no other firm who had requested a private brand which was in a similar position until Simpsons-Sears came to us and we agreed to make their private brand. Eatons sell under their own name 'Eaton's' and Simpsons-Sears under the name established in the United States 'J.C. Higgins'. We have had requests, notably from Woodward's stores in Alberta and British Columbia. Up until this year we have refused them on the grounds that they did not qualify under the restrictions which we had imposed on private brands. However, it became apparent to me this year, that in British Columbia and Alberta where Woodward's had grown quite extensively they were matching the other two firms; that is, in location. Their stores were quite close to the Eatons and the Simpsons-Sears stores. We agreed that at the beginning of 1958 we would make a private brand for them. As a matter of fact I said we would make it this year if they wanted it, but they had committed themselves to a competitive brand in the United States and were not anxious to have it this year. They will get it next year. Having changed our policy to the extent of recognizing firms other than national firms, we also went to one other firm which had approached us, namely Macleod's of Winnipeg and we advised them, providing they buy the minimum quantities set up as necessary for private brands, we would make their brand for them. Actually I do not know whether or not they will take it.

You can appreciate that making a private brand is awkward in that the components are different and we have to break our own normal production. We do not have the private brand looking like our brand, nor is it equivalent to any brand we make. So it means special care has to be taken and special provisions made to set it up. We have established a minimum order of 200,000 shot shells in one gauge. If that minimum order is placed we will accept orders for 100,000 in other loads. The actual private brands now being sold in Canada fall into two 12 gauge loads only, light and heavy weight. Those types are the same types made for Simpsons-Sears and in all likelihood would be the same types made for any other firm which bought a private brand from us."

There are only minor physical differences between private brands and comparable C.I.L. brands. The following comment was included in a description of private brand shells contained in the C.I.L. Return of Information of October 11, 1957:

"Private brand shells are not identical in all respects to the comparable C-I-L brand. These differences may be described as minor in that the private brands are made to the same physical standards and the same materials are used in both. Private brands are loaded with the same quantity of powder, the same weight of shot, and the velocity is the same. . . ."

(Page 1 of Schedule "D")

In 1956, the quantity of private brand shells produced by Canadian Industries Limited formed less than 10 per cent of the total output of comparable types of shells and between 2 and 3 per cent of the total output of shot gun shells of all kinds.

Canadian Industries Limited charges higher prices for the few lines of private brands manufactured than for comparable C.I.L. brands. The higher prices are attributed to additional costs resulting from the limited manufacture of private brands. The additional costs were stated to be primarily due to processing costs as shot shells are manufactured on a number of separate machines and there is a loss of production while production tools are changed to produce smaller quantities of private brand shells.

8. Efforts of Woodward Stores Limited to Obtain a Private Brand of Ammunition

Woodward Stores Limited has operated a department store in Vancouver, B.C. for a great many years. Associated companies have been formed to operate stores in other locations and by 1957 the Woodward Stores organization was operating seven stores, one in Vancouver, West Vancouver, Victoria, Port Alberni and New Westminster, and two in Edmonton. The Vancouver store has conducted a mail order catalogue business in addition to the business of the department store (Evidence, pp. 150-51).

Prior to 1939, Woodward Stores Limited was negotiating with Canadian Industries Limited for the supply of a shot gun shell which could be sold as a Woodward's brand in competition with Eaton's private brand, but war broke out before any arrangements were made. When ammunition was again in ample supply after the war, Woodward Stores Limited was accepted as a direct buyer by Canadian Industries Limited for C.I.L. brands of ammunition but although Woodward Stores Limited continued to seek a private brand of shot gun shell, Canadian Industries Limited would not agree to name a price at which a private brand would be supplied. Early in 1954, Canadian Industries Limited undertook to consider the supply of a private brand to Woodward Stores Limited but this decision was changed shortly afterwards according to the following letter, dated April 6, 1954, from Mr. A. G. Elliott, Sales Manager, Ammunition Division, Canadian Industries Limited, to Woodward Stores Limited:

"I feel I must withdraw from a commitment I made to you at the time of your visit to Montreal a couple of months ago, with regard to prices for a private brand of shot shell for Woodwards.

I said I would let you have our prices for certain loads to allow you to assess the economics of selling your own brand of shell. You will recall that during our discussion I pointed out that the price for these shells would be higher than you are now paying for a comparable C-I-L load (without the C-I-L 'Pressure Sealed Crimp' feature) and in addition there would be substantial expenses for carton and case preparation, tools, etc. Taking these cost factors into consideration I did not feel that a private brand would be too attractive to your firm.

Considering this question from our viewpoint, we are of the opinion that manufacturing a special shell for Woodwards would give raise to many complications. We grant that we now supply shells to one of the large department stores. We have supplied this organization for many years and feel justified in doing so by reason of the volume of business available to nation wide chains of this type. An agreement to supply Woodwards with what is, relatively, a small volume of shells, for sale under your own label would result in our being obliged to accede to the same request from many other wholesalers across the country. We could

conceivably find ourselves in the position of a reduced output of our own shells and making an equivalent volume in small lots of household brands. With the number of load and shot size combinations possible, you can appreciate the adverse effect such a situation would have on manufacturing cost which would be reflected in a higher price of ammunition generally.

Under our present practise we are offering an adequate assortment of shells at reasonable prices and we are certain that the addition of private lines would be to the eventual disadvantage of all concerned. We therefore do not believe it would be advisable to provide you with a household brand shot shell at this time. Your volume of ammunition has shown steady growth and will no doubt continue in line with your plans for future expansion. I think you will agree that the standard of performance and the reputation of C-I-L ammunition have been important factors in your success. Attempting to establish your own shell against the reputation of the shells you now handle would, I am sure, only result in a sharp drop in your sales volume."

(Exhibit V-1)

When Woodward Stores Limited was unable to secure a private brand of shot gun shell from Canadian Industries Limited, the store arranged to have importations made of shells manufactured by the Federal Cartridge Corporation of Minneapolis, U.S.A., whose shells were not being sold in Canada at that time by any other dealer. While Woodward Stores Limited continued to purchase shells and other ammunition from Canadian Industries Limited, it actively promoted the sale of Federal shells and advertised such shells in newspapers in Vancouver and Edmonton during the hunting seasons in 1955 and 1956 (Exhibit H-17). On only a few occasions did such advertisements include C.I.L. brands of ammunition.

Although Woodward Stores Limited promoted the sale of Federal shells in 1955 and 1956 its purchases of C.I.L. ammunition continued to increase each year.

Sales of ammunition by Canadian Industries Limited to Woodward Stores Limited during this period were as follows:

1952 -	\$ 7,540.00
1953 -	10,888.00
1954 -	18,584.00
1955 -	21,156.00
1956 -	30,775.00

(C.I.L. Return of Information
dated March 27, 1957 - Schedule
"C").

In promoting the sale of Federal shells Woodward Stores Limited advertised the sale of ammunition in newspapers in Vancouver and Edmonton in 1955 and 1956. The only kind of ammunition shown in copies of these advertisements filed in Exhibit H-17 is shot gun shells. Six of the advertisements appeared in September and October, 1955, five in Vancouver and one in Edmonton. The prices of individual boxes of Federal shot gun shells advertised in Vancouver were higher than the prices of similar gauge shells listed in Eaton's Eastern Fall and Winter Catalogue for 1955-56, but slightly lower than comparable C.I.L. brands also listed in Eaton's catalogue. In the one advertisement appearing in Edmonton only one type of Federal shell was shown and the price per box was substantially lower than the price advertised in Vancouver but no reduction was offered for the purchase of a case. However, in the advertisements appearing in Vancouver, a case price was advertised which gave a price per box 25 per cent below the price for a single box. Mr. Robert Binley, Merchandise Manager, Woodward Stores Limited, Vancouver, testified in the inquiry that Woodward Stores Limited offered ammunition at a reduced price per case in order to be competitive with local jobbers who, he claimed, would sell a case of ammunition to an individual at a similar price (Evidence, p. 133).

There are ten advertisements of Woodward Stores Limited in 1956 included in Exhibit H-17. Two of these were published in Vancouver and eight in Edmonton. The pattern of prices in the Vancouver advertisements in relation to Eatonia and C.I.L. brands was generally the same as in the case of the 1955 advertisements, except that the discount for a case ranged from about 17 to 22 per cent as compared with the reduction of 25 per cent offered in 1955.

The first advertisement in Edmonton in 1956 included in Exhibit H-17 was published on August 10 and included Federal and C.I.L. brands of ammunition. The prices of single boxes of Federal ammunition were substantially lower than the prices for similar ammunition appearing in later advertisements in Vancouver and were, in almost all instances, lower than prices of Eatonia shells listed in the Eaton's Eastern Fall and Winter Catalogue 1956-57. In addition, case prices were also offered at reductions from about 15 to 17 per cent below the single box price. The advertisement of August 10 also included a number of lines of C.I.L. shells, some of which were types similar to the advertised Federal shells but other types of C.I.L. shells were also offered. The same prices per box and per case were advertised for Federal and C.I.L. shells of similar types. Other types of C.I.L. shells were offered at prices substantially lower than prices listed in C.I.L.'s retail price guide, and further reductions of 12 to 17 per cent were offered for purchases by the case.

No further advertisement of C.I.L. ammunition in Edmonton is included in Exhibit H-17 until October 10, 1956, but Woodward Stores Limited continued to advertise Federal ammunition during August and September at the single box prices offered on August 10, but during September a somewhat smaller discount was offered for purchases in case lots. The advertisement in Edmonton on October 10 announced a "clearance" of American shells and the single box prices of Federal shells were reduced substantially below the level of August 10. However, the new lower prices also applied for purchases in cases. C.I.L. ammunition was again advertised at the single box prices shown in the advertisement of August 10 but the reduction for case lots was not as large as on the previous occasion.

On January 31, 1957, Mr. A. G. Elliott, Sales Manager, Ammunition Division, Canadian Industries Limited wrote, as follows, to Woodward Stores Limited, Vancouver:

"About two years ago you publicized your appointment as the exclusive outlet in Canada for Federal Cartridge Corporation of Minneapolis. It has been apparent that the trend of your merchandising during the past few years has increasingly favoured foreign shot shells to the detriment of those made in Canada.

Under these circumstances we are satisfied that you cannot give to our Canadian-made shot shells the promotional effort that we normally expect from our jobbers and we therefore have no alternative but to withdraw from you the privilege of buying C-I-L shot shells on a direct basis. We will, however, continue to make available to you, if you so desire, centre fire and rim fire cartridges of our manufacture at prices and on terms accorded our distributors."

(Exhibit V-2)

In his evidence to the Commission, Mr. Elliott gave the following explanation of his action:

"Q. I wonder if you would just tell the Commission just what were the circumstances with respect to Woodward Stores?

A. We had been providing Woodward Stores with C.I.L. ammunition for some years. They had asked us to supply them with a private brand shell which, under our policies existing at that time, we did not see fit to do. They, at that time, approached Federal Cartridge Company in the United States for a privately [sic] brand load, and they were turned down by Federal, I understand, on the ground that they could not purchase the required quantity which was, I believe, a million shells.

They eventually did purchase from Federal the Federal national brand of shot shell load in 1955, and again in 1956 they placed orders with Federal. Although they were on a direct listing for C.I.L. ammunition during those years, they advertised the Federal load almost to the exclusion of C.I.L. They, in addition, in their advertising advised the public that they were the sole Canadian agents for Federal ammunition, and at the end of those two years we felt that their efforts on Federal as opposed to what might have been their effort on C.I.L. ammunition was not entirely consistent with their being a recognized distributor of C.I.L. ammunition.

Accordingly, we advised them we would be unable to continue to sell C.I.L. shot shells to their stores."

(Hearing, pp. 371-72)

Although Canadian Industries Limited refused to sell shot shells to Woodward Stores Limited it continued to recognize Woodward Stores Limited as a distributor of other types of ammunition and was prepared to supply such ammunition to Woodward Stores Limited on the same terms as previously. It must be concluded that Canadian Industries Limited did not regard Woodward Stores Limited as an unsuitable outlet for C.I.L. ammunition but intended that its action in refusing to supply shot shells on direct buying terms would have a bearing on the promotion of the sale of Federal shot shells by Woodward Stores Limited. Nevertheless if it regarded Woodward Stores Limited as a suitable outlet for ammunition Canadian Industries Limited would not be assisting the sale of C.I.L. shot shells in Vancouver or Edmonton by making it less advantageous for Woodward Stores Limited to purchase them. The situation was significantly altered later in 1957 when Canadian Industries Limited changed its policy in regard to private brands in the manner already described. Mr. Elliott commented on the change of policy as follows:

"A. . . .

First of all, we decided to change our policy on private brand shells, and accordingly we offered Woodwards, in 1957, a private brand load. We also offered in 1957 the firm of Macleod's Limited in Winnipeg, a private brand load, since they had also applied. The latter firm, that is Macleod's, saw fit to defer any purchase of such a load.

We agreed to supply Woodwards in 1957. However, they advised us that they had made other arrangements and we began to supply them a private brand load in 1958. Actually, it was two loads of private brand shot shell in the 12 gauge.

Q. Are we selling Woodwards also C.I.L. load shells in addition to private brands?

A. Yes, we are."

(Hearing, p. 376)

CHAPTER III

DISTRIBUTION POLICY OF CANADIAN INDUSTRIES LIMITED WITH RESPECT TO AMMUNITION

1. Selection of Distributors

The policy followed by Canadian Industries Limited in the distribution of ammunition was described by Mr. S. J. Smart to the Commission, as follows:

"A. . . .

' Canadian Industries Limited's main objective in the ammunition business is to ensure that its ammunition should be sold in maximum quantities to the Canadian consumer at reasonable prices through appropriate retail dealers suitably located and serviced by reputable wholesalers genuinely interested in promoting the maximum sale of ammunition and most suited to assist the retailers in merchandising and technical matters.

Experience has shown that in order to achieve this objective satisfactorily the hardware and sporting goods store in cities and urban centres and the general store in smaller towns and rural districts are the most suitable retail outlets. There are currently over 10,000 of these retail outlets selling Canadian Industries Limited ammunition. They are located throughout every province of Canada and in the Territories. The distributors logically and actually serving these three types of retail outlets are the hardware wholesalers, sporting goods wholesalers and a combination of the two. Canadian Industries Limited has at the present time 87 wholesalers distributing its ammunition. These are located throughout Canada and many have more than one location. A recent survey shows that these 87 distributors (with 149 distributing points) constitute approximately three-quarters of the wholesalers in Canada who fall within the foregoing categories.

Canadian Industries Limited's attitude towards distributing its ammunition is determined essentially by the potentialities of the market. If Canadian Industries Limited feels that the addition of one or more ammunition wholesale outlets in an area would improve service to retailers and make ammunition more readily available to the consuming public Canadian Industries Limited endeavours to add suitable qualified wholesalers in that area or branches of existing ammunition wholesalers not previously distributing points. If on the other hand it appears to Canadian Industries Limited that the needs of the market in an area are adequately provided for by the existing ammunition wholesalers Canadian Industries Limited will not add to its existing distribution services at the wholesale level merely because additional wholesalers are available. The determining factor is, and must continue to be, whether or not the wholesaler's services would contribute to the more effective marketing of ammunition. The same criterion would be applied by every other responsible manufacturer to the wholesaling of his products.

I would emphasize that this policy is not one that has been evolved by Canadian Industries Limited on account of any advantage offered by its position as sole manufacturer in Canada. Similar policies are followed by firms in active competition with each other, for example ammunition manufacturers in the United States and generally speaking manufacturers of high-grade hardware products throughout North America! "

(Hearing, pp. 50-52)

In his evidence during the inquiry Mr. Smart had given the following additional details about the jobber-retailer chain of distribution:

"A. . . .

Our selling policy on ammunition is to merchandise our product through the jobber-retailer distribution chain. At retail level, we have selected the retail

hardware, retail sporting goods and general stores as the most logical and effective means of providing adequate assortment and quantity to meet the needs of every potential user in Canada.

At wholesale or jobber level, our policy is to select those wholesale establishments whose normal sales contacts are with the three previously mentioned classes of retailers, and who are therefore the logical intermediaries between our factory and these retail outlets.

Selling as we do through the wholesale-retail chain, our direct customers are naturally the wholesale establishments, and in order for a firm to qualify as a jobber of ammunition, that firm must fulfil the following conditions:

They must be bona-fide hardware and/or sporting goods wholesale houses, serving hardware, sporting goods and general stores, with reputable lines of merchandise.

They must have salesmen regularly travelling in defined territories.

They must have an acceptable credit rating.

They must have available satisfactory warehousing facilities for ammunition storage.

While not essential a regular catalogue coverage is desirable.

Our practice is to add to our wholesale outlets only when additional distributing strength is found to be advisable. Our aim is to establish a balance between the number of jobbers and the volume of business available in the areas in which they operate. It has been found from experience that if the dealer service, which we deem necessary, is to be provided, that each of our jobbers has to have available to him a sufficient volume of business to encourage him to actively promote our products. During the period

under review, i.e. from January 1, 1950 to the present time, our distribution policy at retail level has remained unchanged."

(Evidence, pp. 124-25)

In the Company's return of information, dated October 11, 1957, the requirements for the storage of ammunition by distributors were described as follows:

"C-I-L requires its wholesale distributors to maintain warehouse facilities satisfactory for the storage of ammunition. It is essential that storage areas be free from contaminating fumes, excessive heat, moisture and dirt. It is desirable that there should be sufficient area to allow the assortment to be accessible for order filling and maintenance of adequate inventory levels. Ammunition warehousing does not require facilities for handling other than those normally used in a wholesale hardware warehouse for other commodities. Provincial or municipal regulations, however, often set standards for ammunition storage areas."

(C.I.L. Return of Information
dated October 11, 1957 - p.1 of
Schedule "H")

Not all firms recognized by Canadian Industries Limited as wholesale distributors of ammunition fall within the classes as defined by Mr. Smart in his evidence quoted above. Some of the exceptions were referred to by Mr. Smart as follows:

"A. . . . We have on our list a number of firms who would not qualify today under the definition I have given you. These firms are largely in eastern Canada. Some of them are quite small and while they do provide service to us they are not a particularly efficient service. However they have been with us ever since the days of the formation of the Dominion Cartridge Company. We have on our list the first customer of the Dominion Cartridge Company. We keep these firms on our list because we recognize an obligation to these very old jobbers and believe their long association with us warrants the retaining of them as jobbers. What I am saying is we have with us today firms of a

long standing, who if they applied today would not be accepted. We feel a sense of loyalty to an old firm which has been with us for a long long time."

(Evidence, pp. 131-32)

Canadian Industries Limited also sells ammunition directly to five departmental and mail order houses, including those referred to earlier in connection with the sale of private brand ammunition. In addition, some of the wholesale houses on the ammunition list of Canadian Industries Limited also conduct retail operations.

2. Temporary Modification of Ammunition Distribution Policy, 1956-57

At the beginning of 1956, the Director of Investigation and Research took up with Canadian Industries Limited the complaint of a wholesale hardware firm in Western Canada whose application to become a distributor of C.I.L. ammunition had been refused by Canadian Industries Limited. According to the evidence of Mr. S. J. Smart, Canadian Industries Limited did not dispute that the wholesaler in question came within the category of hardware wholesaler as defined by the company. Following a discussion with the Director of Investigation and Research in February, 1956, Canadian Industries Limited attempted, as stated by Mr. Smart, "to change its distribution policy to the extent that all hardware and sporting goods wholesalers requesting appointment as wholesalers of ammunition if they met the required qualifications would be accepted" (Hearing, p. 53).

In changing its distribution policy to the extent indicated, Canadian Industries Limited confined its consideration of new distributors to those wholesalers of the defined classes who applied after February, 1956. This was so stated by Mr. S. J. Smart:

"Q. You say that since February of 1956 you have deviated from your policy?

A. We had a policy up to that time of saying we will only service a certain number, that number to be the desired number in order to give complete coverage in

any area. In February, 1956, we changed that to accept people who applied to us who qualified under our definition of either a wholesale hardware firm or a wholesale sporting goods firm and who applied to us after February, 1956."

(Evidence, p. 142)

The returns of information made by Canadian Industries Limited show the following number of separate firms accepted as distributors in the period 1952-57. Additional branches of firms previously accepted as distributors are not included in the table.

Table VIII

Number of New Distributors (1)
of Ammunition accepted by Canadian Industries Limited, 1952-57

	1952	1953	1954	1955	1956 Jan.-Mar.	1956 May	1957 Jan.
Newfoundland	1				1		
Quebec		1	1		2		
Ontario				1		3	
Manitoba				1			
Saskatchewan					2		
Alberta						1	
Totals:	2	2	2	1	-	4	2
							4

(1) Not including branches.

Sources: C.I.L. Returns of Information dated March 27, 1957 and February 13, 1958

The firm in Western Canada whose complaint gave rise to the discussion with the Director of Investigation and Research was accepted as a distributor by Canadian Industries Limited in May, 1956. In January, 1957 four new distributors were accepted and it was stated in evidence in the inquiry that the three appointed in Ontario would not have been accepted under the policy which had been followed prior to February, 1956. Mr. A. G. Elliott, Sales Manager, Ammunition Division, Canadian Industries Limited, said:

"A . . . the three other firms came under the change in policy where the companies were qualified but the coverage was not entirely necessary; that was the reason for Weaver, Cockburn & Archer and McKeough. In respect of Letourneau, that was a case where it was a qualified jobber and we felt additional coverage was necessary in the Victoriaville area.

Q. Was the reason why you chose Weaver, Cockburn & Archer and McKeough because they applied since February, 1956?

A. Yes. They were fully qualified but the distribution was not entirely necessary."

(Evidence, p. 145)

Later in his evidence, Mr. Elliott said:

"A. Had we not changed our policy during that interval I venture to say we would not have added those."

(Evidence, p. 149)

The change of policy of Canadian Industries Limited toward the acceptance of new wholesale distributors made in 1956 was continued only to the beginning of 1957 when the company decided to revert to the policy previously in effect. Mr. Smart said:

"A. . . .

The policy at wholesale level which I have outlined, has not been followed consistently in this period. We departed from it to the extent of recognizing wholesale houses who applied to us and who qualified under our definition of legitimate wholesale hardware or sporting goods jobbers in February, 1956.

The result of this change in policy has been to add a number of firms in the past two years, and we are now convinced that the addition of these firms has not contributed to our objective of selling the maximum quantity of ammunition in Canada. It is quite clear to us that if we are to have the attention given our products that is necessary at jobber level, that the firms who handle our ammunition must be assured that there is sufficient volume available to them to make their efforts worthwhile."

(Evidence, pp. 125-26)

In his evidence to the Commission Mr. Smart said that the decision to revert to the distribution policy in effect prior to February, 1956 was made when question was raised early in 1957 by the Director of Investigation and Research in regard to the refusal of Canadian Industries Limited to accept a wholesaler of guns and accessories as a distributor of ammunition. Mr. Smart stated in his evidence to the Commission that the application was rejected "on the grounds that a wholesaler handling only guns and shooting accessories did not qualify as a sporting goods wholesaler" (Hearing, p. 54). This particular instance will be discussed later in this report.

In the opinion of Canadian Industries Limited a further relaxation of its policy of limiting the number and types of distributors of ammunition was undesirable. Mr. Smart expressed the opinion as follows:

"A. . . .

" . . . If Canadian Industries Limited could neither select its individual wholesalers for ammunition nor establish suitable categories of wholesalers from which they should be appointed, its distribution system was being reduced to no system at all and the direction of the marketing of its ammunition was being taken right out of its hands. After careful consideration and believing in its right to do so, the Company reverted to the distribution policy which had proved so efficient and been in effect for many years prior to 1956. "

(Hearing, pp. 54-55)

Except for the period in 1956-57, Canadian Industries Limited has followed a policy in connection with the distribution of its ammunition of adding a new distributor in any area only when it considered that such an addition would improve service to retailers and make ammunition more readily available to the consuming public and then such new distributor would be chosen only from what are regarded as suitably qualified classes of wholesalers, namely full-line hardware wholesalers or full-line sporting goods wholesalers or a combination of these two classes (Hearing, p. 50).

3. Applicants Rejected by Canadian Industries Limited as Distributors of Ammunition

Between January 1, 1952 and December 3, 1956 Canadian Industries Limited did not accept applications from 46 firms in all parts of Canada to be recognized as direct buying accounts for C.I.L. ammunition. The business locations of the applicants were as follows:

Newfoundland	2
Nova Scotia	2
New Brunswick	1
Prince Edward Island	1
Quebec	14
Ontario	17
Manitoba	2
Saskatchewan	3
Alberta	1
British Columbia	2
Yukon	1
	<u>46</u>

(C.I.L. Return of Information
dated March 27, 1957 - Schedule
"F")

The nature of the business of 14 of the applicants in Quebec and Ontario was inquired into by the Director of Investigation and Research and the results of the inquiries were set out in the Statement of Evidence. Mr. A. G. Elliott, Sales Manager, Ammunition Division, in his evidence to the Commission, outlined the information possessed by Canadian Industries Limited in regard to each of the 14 applicants at the time the decision was made not to accept the applicant as a distributor of ammunition. The business

of the 14 applicants may be classified very generally as follows:

Wholesale mill and factory supplies, contractors' equipment, plumbing goods and hardware	1
General line wholesale and retail hardware and sporting goods	2
Wholesale and retail hardware, plumbing goods, mill and factory supplies	2
Wholesale farm equipment, hardware, building supplies	1
Wholesale sporting goods	3
Wholesale automotive goods, hardware, sporting goods	4
Wholesale tobacco and sundries	1

In view of the policy followed by Canadian Industries Limited over the years of not adding additional wholesalers when, in the opinion of the company, the needs of the market for ammunition are being adequately provided for by the existing distributors of C.I.L. ammunition there would be no point in reviewing in detail the information as to the business operations of each of the 14 applicants surveyed, out of the 46 applications received by Canadian Industries Limited in the five years, 1952 to 1956. Even if the applicant conformed to the definition of wholesale hardware dealer or wholesale sporting goods dealer he would not be accepted as a distributor of ammunition by Canadian Industries Limited unless the company considered that his services were needed in the market in which the applicant carried on business. In examining the situation, Canadian Industries Limited would have regard to the amount of ammunition business available to existing distributors.

The information in regard to the 14 applicants indicates that nine of them were either wholesaling ammunition or were about to do so. In five cases the dealers were handling imported ammunition because of their inability to purchase ammunition directly from Canadian Industries Limited. In some cases the volume of business in imported ammunition would apparently be in excess of the volume of annual purchases of ammunition made by many of the distributors to whom Canadian Industries Limited sold

ammunition. Three or four of the applicants were purchasing C.I.L. ammunition indirectly from distributors who are direct accounts of Canadian Industries Limited. In two instances the volume of C.I.L. ammunition bought indirectly appears to have been greater than the scale of purchases of many direct accounts of Canadian Industries Limited and in one of these two cases, the volume of sales of C.I.L. ammunition exceeded the scale of ammunition purchases of more than half the direct accounts of Canadian Industries Limited. It should be kept in mind that the ammunition business carried on by these rejected applicants was secured either under the handicap of selling what was usually more costly imported ammunition or of handling C.I.L. ammunition without the benefit of the more favourable terms of sale which were available to wholesalers buying directly from Canadian Industries Limited.

It will be noted that among the trade classes of rejected applicants were sporting goods wholesalers and, for lack of a better description, what may be termed automotive supplies wholesalers. In the case of sporting goods wholesalers Canadian Industries Limited considered that the particular firms were specialized wholesalers rather than general line sporting goods wholesalers as the Company defined this class. This distinction will be considered more fully later when the evidence in regard to Peterborough Guns Limited is reviewed.

In regard to automotive supplies wholesalers, Canadian Industries Limited has held to the view that the distribution of C.I.L. ammunition is not assisted when supplies are made available to what were termed garages and, therefore, it does not consider it desirable to deal directly with wholesalers whose business is in the automotive field. In fact Canadian Industries Limited attempts to discourage the distribution of its ammunition to garages. Such establishments would come within the "unauthorized outlets" referred to in the notice to C.I.L. distributors which was quoted earlier.

The evidence does not disclose to what extent garages have engaged in the sale of ammunition or would wish to do so, but in the opinion of the Commission it would seem that, except perhaps, in rural areas, garage operators would have little incentive to stock and sell ammunition to any extent.

It is a matter of common knowledge that there are retail establishments whose business may have originated in the automotive field but which have added a diversity of lines until they are able to offer the public a wide range of goods in addition to automotive supplies and accessories. Some of these establishments are grouped into chains of directly operated or associated or

affiliated stores which are serviced by controlling or affiliated wholesale supply houses. It is also a matter of common knowledge that many of such stores have included sporting goods among the lines handled. The rate at which such stores have developed indicates that they are offering merchandising services desired by substantial numbers of consumers.

4. Rejection of Peterborough Guns Limited as Distributor of C.I.L. Ammunition

Peterborough Guns Limited, Peterborough, Ontario was incorporated in November, 1956 and commenced business on January 1, 1957. Preparations for the conduct of business by the new firm were made in 1956 and among possible suppliers who were approached was the Ammunition Division of Canadian Industries Limited. During the summer of 1956, Mr. D. A. Wilson, who became President and General Manager of Peterborough Guns Limited on its incorporation, visited Mr. Don Learmont, Ontario Sales Manager, Ammunition Division, Canadian Industries Limited, in Toronto, accompanied by Mr. Sidney Gulliver, subsequently Vice-President, Peterborough Guns Limited. During this interview the nature of the business to be conducted by Peterborough Guns Limited was discussed, and a request was made to be accepted as a direct account for C.I.L. ammunition. On September 4, 1956, Mr. D.A. Wilson wrote to Mr. Don Learmont as follows:

"Since our visit with you at your office last month, the Company of Peterborough Guns Incorporated for the business of distributing guns, ammunition and accessories has been duly formed, accepted by the Provincial Secretary's office and the charter will be issued and ready within sixty days.

We would ask you to forward to your Company our requests for Guns Incorporated to be sold CIL ammunition, components, etc., as a distributor in Peterborough.

This Company will distribute only guns, ammunition, sights, reloading equipment, ie all companion gun equipment. The Company will have no connection with Dit Clapper's Sport Shop, retail store. We plan to start the Company as of January 1st, 1957 and will have two men at this time covering Ontario, specializing in the above mentioned lines.

During the past year we have had tremendous success by having one man specialize in selling guns and ammunition,

and I am sure we can do a terrific job for you with CIL products. We would appreciate your confirming our request as soon as possible so that we may incorporate your line in our catalogue and advertising, which we hope to have rolling early in January."

(Exhibit 1)

Mr. Wilson wrote again on October 26, 1956 to Mr. Learmont:

"I am writing you again regarding the request of Guns Incorporated to be appointed as a distributor of CIL ammunition, etc. Since my last letter of September 4th, things have been developing very quickly and satisfactorily. Guns Incorporated now has its official charter and we are ready to start operations as of January 2nd.

We have been fortunate in obtaining a verbal agreement with Personal Finance Company to allow our dealers to finance all our guns, regardless of make, on a plan similar to that of Winchester. I do not need to explain to you what a terrific boost this will be to the sale of arms to new customers and to new shooters, which in turn is bound to increase the sale of ammunition. After the tremendous reception and sale we have had this season Don, I have no doubt that Guns Incorporated this time next year will be the Gun House of Canada.

It is very very urgent, however, Don that we have an answer immediately regarding CIL ammunition. Our catalogue is now ready to be printed, our letterheads and advertising are ready to go, everything in that line is at a stand still waiting to add CIL to our very impressive list of merchandise. I would appreciate you trying your best to have your executive officers [sic] decide on this just as quickly as possible. I realize they have many other considerations but this is a rather peculiar circumstance where we would like to announce everything at once.

If it would help at all, I would be glad to travel to Montreal and meet with your Company, or take any other steps that would help to come to a quick and satisfactory answer.

Please call me if there is anything [sic] further information or data you need."

(Exhibit 2)

In his evidence in the inquiry Mr. Wilson said that from October, 1956 to January, 1957 he followed up the request with Mr. Learmont practically every week because the matter of being accepted as a direct ammunition account by Canadian Industries Limited was regarded as quite important in the business of Peterborough Guns Limited (Evidence, pp. 9-10). On or about February 8, 1957 Mr. Wilson was informed by Mr. Learmont that Canadian Industries Limited would not accept Peterborough Guns Limited as a wholesale distributor of C.I.L. ammunition.

Mr. Wilson and Mr. J.F. Dempsey, Secretary-Treasurer and Sales Manager of Peterborough Guns Limited, then went to Montreal and interviewed Mr. A. G. Elliott, Sales Manager, Ammunition Division, Canadian Industries Limited. Mr. Wilson described the result of this interview as follows:

"A. . . . We had a talk with Mr. Elliott who advised us that our application had been turned down because they had no category by which they could sell us ammunition, although he personally stated that we definitely should be classed as a number one category because we were exclusively guns and ammunition and gun accessories. We handle nothing else, wholesale only."

(Evidence, p. 11)

The following is a portion of Mr. Dempsey's evidence:

"A. . . . we asked Mr. Elliott if he had any particular reason why we should not be put on. After haggling around a bit he finally said, well, that the reason they could not put us on was that if they put us on, if they put our particular company on, they would have to put on everybody else. We brought to his attention that they had set a category for hardware dealers and sporting goods dealers, and asked why could they not have a category for our particular deal, which is guns, wholesale only. It is the only one of its kind in Canada at the present time. We handle American and Canadian guns. Mr. Elliott said that, well, they could not put us on because Ottawa would force them to put everybody on, if they put us on. . . ."

(Evidence, pp. 102-03)

Mr. Elliott gave the following evidence in the inquiry:

"Q. Did Peterborough Guns not also apply in that period [i.e. after February, 1956]?

A. Yes. That is correct.

Q. Is the reason that their application was turned down because they were in a different category?

A. Yes.

Q. In other words you did not feel you should extent recognition to a new category.

A. Yes. They were not a bona fide hardware and/or sporting goods wholesaler. That was the reason given.

Q. They were a wholesale gun house though?

A. Yes.

Q. But you did not feel that was a desirable category for distribution?

A. That is right.

Q. It would seem logical, would it not, that a house selling a complete line of guns should also sell ammunition?

A. No. Not entirely. Logically you would associate the gun and the ammunition business, but they are not so associated in a commercial sense. Once the man has a gun he has made an investment and then he is more interested in a supply of ammunition than he is interested in houses carrying guns or houses wholesaling guns. Our main effort in life is to establish a supply of ammunition, and our considerations are apart from the fact that our wholesaler or retailer sells guns. Our whole interest is in him having a supply of ammunition. The tag on Peterborough Guns as a gun wholesaler would not add necessarily to our distribution.

Q. You do not feel that a gun house could give more attention to your ammunition line than a hardware wholesaler who has a very wide line and cannot give as much attention to your line?

A. It works the other way. The hardware houses equipped to service the retailer with a broad line of goods have a much better entry into that than has a specialty jobber. I think in essence the retailer has a certain amount of time to devote to buying the goods and is much more interested in spending his time in selling them. So his main interest is in having a jobber

salesman call on him who is prepared to write an order for anything he needs at that time. There are a multitude of specialty jobbers who are carrying relatively few lines of merchandise and they do not get a hearing. I have to speak generally now. In general they do not get a good hearing from the retail trade. The retailer is more interested in obtaining a full supply from the jobber salesman calling on him."

(Evidence, pp. 145-47)

The evidence of officers of Peterborough Guns Limited was that the firm has operated as a wholesale house dealing exclusively in guns and ammunition, and they believed that their business is the only one of this kind in Canada. Salesmen of the firm call on retail sporting goods, hardware and general stores in Ontario and parts of Quebec and business is sought in other parts of Canada through the use of the mail, including the distribution of a catalogue. At the end of 1957, Peterborough Guns Limited had an inventory exceeding \$100, 000 and its sales in all lines during the first year of operation had been in excess of \$400, 000 of which about \$16, 000 were sales of ammunition (Evidence, pp. 13-15, pp. 173-74). The President of Peterborough Guns Limited stated in the course of his evidence that the inability of the firm to act as a direct distributor for C.I.L. ammunition has curtailed the revenue of the Company by about 25 per cent (Evidence, pp. 16-17). The Secretary-Treasurer of Peterborough Guns Limited said that the Company's policy is to carry a complete line of ammunition throughout the year (Evidence, p. 182). Peterborough Guns Limited has imported ammunition from the United States. Such ammunition is subject to duty and in order to be sold profitably it must usually be priced about 20 per cent above comparable lines of C.I.L. ammunition, thus limiting the possibility of competitive selling on a substantial scale (Evidence, pp. 33-34).

CHAPTER IV

TARIFF PROTECTION OF THE AMMUNITION INDUSTRY IN CANADA

1. Position of Canadian Industries Limited

The position taken by Canadian Industries Limited is that without tariff protection the Company could not maintain the production of ammunition in Canada. This view was expressed as follows by Mr. Smart:

"A. . . .

There is no thought that we could compete without tariff protection with the big producers in the United States. We would be out of business. There is no question about that. . . ."

(Hearing, p. 196)

The advantages possessed by manufacturers of ammunition in the United States in terms of the size of the available market and scale of operations were described by Mr. Smart as follows:

"A. 'The United States with approximately 10 times the population of Canada and between two and three times Canada's per capita consumption of ammunition represents an ammunition market twenty to thirty times greater than the Canadian. As already mentioned there are only three plants making commercial ammunition in the United States from which it becomes readily apparent that each of these American plants produces a volume of ammunition far in excess of any volume possible to Canadian Industries Limited.'"

(Hearing, p. 86)

"'Ammunition as a product is peculiarly suitable to mass production methods and to mechanization, so that volume plays an all important part in determining manufacturing costs. American ammunition provides by far the most active competition in Canada to Canadian Industries Limited

ammunition. Because the two countries are adjacent, have a comparable standard of living and to a certain extent share common recreational interests, the Canadian public reads regularly a large number of American magazines, including American sporting journals. Canadian shooters therefore become familiar through American advertisements with the latest developments of American ammunition and expect Canadian Industries Limited to produce any new calibres and loads that are being marketed in the United States. Generally speaking Canadian Industries Limited anticipates these requirements.!"

(Hearing, pp. 93-94)

The principal reasons given by Mr. Smart for the higher per capita consumption of ammunition in the United States were the greater availability of game because of climatic and other factors, the higher level of consumer incomes leading to larger expenditures and a stronger tradition of the use of guns (Hearing, pp. 87-88).

As indicated in the evidence of Mr. Smart, quoted above, Canadian Industries Limited has found that by far the most active competition in ammunition comes from the United States. Although Canadian Industries Limited considers that only 5 per cent or less of the Canadian market for ammunition is supplied by imports the Company is always watchful for potential competition from the United States because the circulation of American periodicals in Canada keeps Canadian users of ammunition familiar with developments in the United States and in addition, American type guns are extensively used in Canada. Imports of ammunition from countries outside North American, the evidence indicates, take place largely to match foreign guns in Canada, that is to supply ammunition for which there is no Canadian or American counterpart. Table IX presents figures of imports of non-military ammunition into Canada in recent years.

Table IX
Imports of Ammunition (Non-Military) into Canada, 1950-58

	1950 \$	1951 \$	1952 \$	1953 \$	1954 \$	1955 \$	1956 \$	1957 \$	1958* \$
Cartridges, Shot Gun Shells (9237)									
United Kingdom	2,641	4,353	487	28	1,290	22,140	91	1,410	5,478
Norway	569	-	-	-	-	-	-	-	-
United States	7,039	14,394	6,951	12,024	9,192	35,208	80,628	69,120	29,315
Germany, E.	-	-	-	-	-	254	-	-	-
Austria	-	-	-	-	-	-	254	-	-
Germany, W.	-	-	-	-	-	-	272	2,086	2,203
Italy	-	-	-	-	-	-	-	1,535	1,284
France	-	-	-	-	-	-	-	-	66,687
Total Imports	10,249	18,747	7,438	12,052	10,482	57,602	81,245	74,151	104,967

Cartridges, Metallic (Ammunition) (9239)

France	-	-	-	-	-	-	-	-	800
United Kingdom	25,366	12,416	18,803	11,404	18,680	40,563	14,129	13,180	8,349
Australia	4,701	-	-	-	-	-	-	-	-
Czechoslovakia	4,618	6,505	3,833	720	-	-	-	-	-
Norway	-	4,729	-	-	-	-	-	6,131	4,114
United States	32,614	37,593	33,835	51,877	67,069	88,369	120,770	117,235	66,844
Switzerland	-	-	-	-	-	-	1,310	162	5,862
Denmark	-	-	-	-	6,418	2,551	-	3,763	3,109
Sweden	-	-	-	-	-	-	4,557	5,310	11,564
Germany, W.	-	-	-	-	1,225	2,263	4,090	9,914	7,553
Belgium	-	-	-	-	-	1,600	1,452	185	-
Finland	-	-	-	-	-	-	-	176	-
Italy	-	-	-	-	-	-	-	350	-
Total Imports	67,299	61,243	56,471	64,001	93,392	135,346	146,308	156,406	108,195

* 9 months only. Source: Dominion Bureau of Statistics, Trade of Canada.

Canadian Industries Limited endeavours to manufacture all lines of ammunition which are in popular demand in Canada but as a service to its customers it imports some lines for which the demand does not warrant production in Canada. Mr. Smart referred to such imports in the following way:

"A. . . . Where the demand for some lines is below the level required for economical manufacture in Canada, these particular lines are imported from foreign makers. In this way the Canadian shooter can get practically any load or type of ammunition.

The quantity of imported ammunition that we bring in as a service to our customers is very small in relation to the quantity we manufacture. Over the past two years it has averaged 3/10 of 1 per cent of the value of total ammunition sold."

(Evidence, p. 124)

The value of imports of ammunition by Canadian Industries Limited is shown in Table X.

Table X

Value of Imported Ammunition Sold by
Canadian Industries Limited, 1952-56

1952	\$ 19,224
1953	12,341
1954	14,341
1955	19,173
1956	17,669

Source: Exhibit H-10

2. Reliance of Canadian Industries Limited on Tariff Protection

The principal raw materials used by Canadian Industries Limited in the manufacture of ammunition are brass strip, lead, lead shot, powder and paper (Hearing, p. 278). Canadian Industries Limited cups and draws brass strip to make cartridge cases and the base of shot shells. The Company buys pig lead and draws wire and forms bullets. Lead shot is purchased from the one firm in Canada with a shot tower. Shot shell paper and paper for gun wads are not made in Canada and are imported by Canadian Industries Limited from the United States on a duty-free basis. Propellant powders are not manufactured in Canada and Canadian Industries Limited imports such powders from the United States (Hearing, pp. 102-07). The powders imported are subject to a duty of 2-3/4 cents per pound which, apparently, is less than 3 per cent of the average value (Hearing, p. 283).

Mr. Smart was asked about the policy followed by Canadian Industries Limited in pricing its ammunition and gave the following reply:

"A. How [do] we price? Well, I suppose like all pricing policies, there are two major factors involved. One is your costs which you may or may not be able to recover. The other is the price at which an article you manufacture may be obtained from other sources. In other words, if there is a competitor, his price must be yours or yours must be his, if the quality is the same.

In our instance, we never have taken the advantage of the tariff which would be permitted to us under the $22\frac{1}{2}$ per cent. The purpose of our pricing is to get a reasonable return but this, I think, must be viewed in the long term, and in the light that we want ammunition to remain popular. We are conscious that costs are rising at a rate which is forcing prices up pretty steeply. Anyway, there is a point reached in connection with any product when the public will say: 'No, that is too much.' We do not want that product to hit that price. We want to have as much as possible of the Canadian market, so our unit costs will be minimized. The [more] we have, the cheaper we can manufacture.

I think that is fairly evident from what has been said. Volume plays quite an important part in this business of ours. To the extent we have capital invested in the plant and that capital is not gainfully employed, obviously the more volume the lower the selling cost, and our selling policy is based on a desire or an attempt to recover what we deem to be a reasonable return on our investment. But in selling, the actual prices, we look at [what] competitive ammunition from the United States is being sold for in Canada, and we look at the price to the public to see if that price is such that by an increase you are apt to have an adverse effect on volume.

There have been instances where price increase has definitely sharply curtailed the sale of a particular product. We do not want that to happen. Our pricing policy is really aimed at our getting as large a share as possible of this Canadian market. We realize to do that we must always be giving a product which compares favourably."

(Hearing, pp. 154-55)

What the Company regards as a reasonable return was described by Mr. Smart as follows:

"A. Our plant, you know, is quite an old plant. The value shown as capital value on our books is well below replacement value. This factor shows up every time we have to change the basis of equipment, so when I say our return has been in the neighbourhood of 10 per cent, that is a 10 per cent return on a quite old investment.

Q. Yes, I see. Well, that will appear more clearly from the financial information which I had forgotten about for the moment, if and when the Commissioners wish to examine it. But your present recollection is that the target is 10 per cent on your fixed and other investments?

A. Yes, we have not always made 10 per cent."

(Hearing, p. 164)

Earlier in his evidence Mr. Smart had said that the figure of 10 per cent was after taxes. Information was provided by Canadian Industries Limited as to the net income of the Ammunition Division in 1955 and 1956 which indicated that the net income after taxes in those years was between 10 and 11 per cent of net sales (C.I.L. Return of Information dated October 11, 1957 - p. 1 of Schedule "C").

The customs duties applying on ammunition are 10 per cent under the British Preferential Tariff and $22\frac{1}{2}$ per cent under GATT (General Agreement on Tariffs and Trade). The latter rate applies on imports from the United States and from most non-Commonwealth countries. The tariff position from the viewpoint of Canadian Industries Limited was described by Mr. Smart, as follows:

"A. . . . 'The Canadian ammunition business is protected by a tariff of $22\frac{1}{2}\%$ applied against imported products from the United States but the American manufacturers with their far greater volume and consequent lower costs are protected by a 30% tariff from imports of Canadian ammunition. Canadian Industries Limited has not relied on tariff protection to maintain its position in the Canadian ammunition market. Rather it has taken every opportunity to improve the quality of its ammunition and to build up and foster the Canadian market and by increasing its share of that market to reduce unit costs.' "

(Hearing, p. 94)

A comparison of manufacturers' list prices in Canada and the United States and suggested retail prices in both countries for selected types of ammunition was filed with the Commission by Canadian Industries Limited and is shown below as Table XI.

Table XI

Comparison of Manufacturers' Selling Prices of Ammunition in Canada and the United States and Suggested Retail Prices (National Currencies)

	Suggested Retail Selling Price Per Box			Selling Price to Jobbers/M			C.I.L. Price is Over U.S. Price By %		
	U.S.	Mfg.	C.I.L.	U.S.	Mfg.	C.I.L.	U.S.	Mfg.	C.I.L.
<u>Rim Fire</u>									
22 Short	\$.55	\$.58	\$ 5.5	6.00	6.33	5.5			
22 Long Rifle	.78	.85	9.0	8.51	9.27	8.9			
22 Long	.70	.76	8.6	7.64	8.29	8.5			
22 Long Rifle Shot	1.31	1.50	14.5	14.29	16.36	14.5			
25 Stevens	3.00	2.90	(3.3)	32.74	31.64	(3.4)			
<u>Centre Fire</u>									
30/30 Winchester	3.60	3.85	6.9	98.21	105.00	6.9			
30/06 Springfield	4.55	4.80	5.5	124.12	130.91	5.5			
25/20 Winchester	5.65	6.35	12.4	61.65	69.27	12.4			
38 Smith & Wesson	4.10	4.70	14.6	44.74	51.27	14.6			
<u>Shot Shells</u>									
12 ga. Long Range	3.40	3.60	5.9	74.20	78.55	5.9			
12 ga. Standard	2.85	3.10	8.8	62.20	67.64	8.7			
12 ga. Target	2.80	2.85	1.8	61.11	62.60	2.4			
20 ga. Long Range Buckshot	4.10	4.25	3.7	89.47	92.73	3.6			
40 ga. Long Range	2.30	2.70	17.4	50.20	58.91	17.4			

(Exhibit H-4)

Another comparison made by Canadian Industries Limited was to express the amount by which its prices exceeded prices in the United States as a percentage of the tariff rate of $22\frac{1}{2}$ per cent. This comparison is given in Table XII.

Table XII

Difference between C.I.L. and U.S. Prices of
Ammunition as Percentage of Tariff Rate of $22\frac{1}{2}\%$

	<u>Rim Fire</u>			<u>Centre Fire</u>			<u>Shot Shells</u>			<u>All Ammunition</u>		
	<u>Min.</u> <u>%</u>	<u>Max.</u> <u>%</u>	<u>Aver.</u> <u>%</u>									
1952	Nil	40	1	Nil	61	12	Nil	25	12	Nil	61	9
1953	Nil	47	21	Nil	64	40	Nil	44	23	Nil	64	25
1954	Nil	47	21	Nil	64	39	Nil	44	24	Nil	64	26
1955	Nil	70	35	29	72	49	6	48	31	Nil	72	35
1956	Nil	65	29	21	82	35	Nil	48	27	Nil	82	29
1957	Nil	64	31	24	68	35	Nil	48	26	Nil	68	29
1958	Nil	64	31	24	68	35	10.8	77	40	Nil	77	37

Note:

The 1958 tariff utilization for shot shells shows a sharp increase over previous years, resulting from an increase in Canadian Industries Limited selling prices with no corresponding increase in the U.S.

(Exhibit H-7)

The following comments were made by Mr. Smart:

"A. . . . As the table filed earlier as an exhibit shows the price at which Canadian ammunition is available in Canada is slightly higher generally than that at which American-made ammunition is available in the United States on account of the manufacturing economies which are possible with the large American market. However, the price differential is not by any means comparable to the measure of tariff protection. Generally speaking on large volume popular items Canadian Industries Limited keeps its use of the tariff to the minimum but uses a greater proportion of the tariff where a small volume item results in high manufacturing costs. . . ."

(Hearing, pp. 95-96)

The basis of comparison used in the table may be illustrated in the following way. If a box of ammunition had a price in the United States of \$1.00, the duty-paid price on entering to Canada would be \$1.22 $\frac{1}{2}$, as the rate of duty is 22 $\frac{1}{2}$ per cent. If the price of similar Canadian ammunition was also \$1.22 $\frac{1}{2}$, the tariff would be used one hundred per cent. On the other hand, if the price of Canadian ammunition was \$1.07 $\frac{1}{2}$, the tariff would be used to the extent of 33-1/3 per cent. Table XII shows the maximum and minimum extent to which the tariff is used by Canadian Industries Limited for the main classes of ammunition. Where the word "nil" is entered it is to be understood that the price of C.I.L. ammunition is no higher than the price in the United States.

It will be seen from Table XII that, on the average, the proportion of tariff protection used by Canadian Industries Limited in 1958 ranged from 31 to 40 per cent for the three classes of ammunition, the lower percentage applying in the case of rim fire and the higher for shot shells. This was the first time for the years covered by the table that shot shells had the highest average percentage and the reason given by Canadian Industries Limited, as shown in the footnote, was that prices of C.I.L. shot shells were increased without a corresponding increase in the prices of shot shells in the United States.

The following paragraph in the Statement of Evidence reviews the evidence obtained by the Director on the relative cost in Canada of ammunition imported from the United States:

"51. Ammunition imported from the United States is subject to duty of 22 $\frac{1}{2}$ per cent (Evidence, pp. 20

and 139; Customs Tariff, Schedule 'A', Item 441: General 30 per cent; MFN $27\frac{1}{2}$ per cent; British Preference 10 per cent; GATT $22\frac{1}{2}$ per cent). Some brands of American ammunition are from 12 per cent to 15 per cent lower in price than comparable C.I.L. ammunition without taking into consideration the premium on the Canadian dollar (Evidence, p. 20). However, these American prices are f.o.b. the American factory whereas C.I.L. ammunition is f.o.b. the purchaser's warehouse (Evidence, p. 20) effected by a freight allowance as a deduction from the invoice value of the ammunition (Page 15, C.I.L. Return of Information - March 27, 1957 - Schedule 'D'). It has been estimated that imported Remington ammunition from the United States would cost the importer 30 per cent more than for similar types of C.I.L. ammunition (Evidence, p. 22). An examination of the actual laid down costs of imported ammunition indicates that the cost of imported ammunition to a point in Ontario exceeded the cost of comparable C.I.L. ammunition by from 13 per cent to 17 per cent with the ultimate retail prices, based on comparable margins, running approximately 16 per cent to 20 per cent higher (C.I.L. Return of Information - November 13, 1957 and Peterborough Guns Limited Return of Information - October 7, 1957). The comparison of similar figures for Vancouver indicated that the laid down cost of imported ammunition exceeded the cost of C.I.L. ammunition by from 8 per cent to 12 per cent (C.I.L. Return of Information - November 13, 1957 and Woodward Stores Limited Return of Information - September 27, 1957). Freight, duty and sales tax all contribute to this enhanced cost (Evidence, pp. 139-40, Vancouver Hearings)."

While, as will be seen from the foregoing quotation, the information secured by the Director indicated that manufacturers in the United States quoted prices f.o.b. factory, evidence given to the Commission by Mr. Smart was to the effect that manufacturers in the United States sold on an equalized freight basis, so that a buyer anywhere in the United States would be charged the same price regardless of the particular factory from which the ammunition might be shipped (Hearing, p. 202). It is clear that C.I.L. carload prices include total freight charges, whereas in the United States some freight is paid by all purchasers not taking delivery at factory points, in addition to the purchase price.

The fact that the duty-paid value of imported ammunition from the United States exceeds, in practically all instances, the manufacturer's selling price of C.I.L. ammunition means that the amount of the sales tax on imported ammunition is greater than the amount of the sales tax on lower-priced Canadian ammunition. This situation is made more pronounced because the prices of C.I.L. ammunition are delivered prices and, therefore, the amount of the freight allowance is deducted in establishing the price on which the sales tax is applied.

Some lines of ammunition made in Europe can apparently be imported into Canada at a lower price than similar lines of C.I.L. ammunition. Mr. Smart gave the following evidence:

"A. . . . So there is in the country now, European ammunition which can be landed here under our cost.

It is a matter of selling it or a matter of acceptance by the Canadian shooting population. They have not, to date, elected to be interested in buying any large quantity of it.

BY THE CHAIRMAN:

Q. Would you say it was fairly comparable to the ammunition produced by C.I.L.?

A. I would say, as a broad statement, that it is not too acceptable for certain types of use in Canada, in certain specified types of arms popularly used in Canada.

Q. If it is not as suitable for certain purposes, that would have an effect on the sale-ability?

A. That is right. It is for that reason we have felt that our major competition is always likely to arise from the American made products. We use American guns and our ammunition is made to suit American guns. We do not have any Canadian gun manufacturers of any consequence, so our stuff is more comparable to the American products than it is to the European products."

(Hearing, pp. 199-200)

Mr. Wilson of Peterborough Guns Limited gave the following evidence in the inquiry:

"Q. Would you say that the availability of supply of domestic ammunition constitutes an important advantage with respect to things like inventory cost and so on?

A. Yes, it is the whole essence of the business because there are so many varieties that it is impossible to stock them. You have to have a source of supply or you would have a fantastic inventory. It would not be practical at all.

Q. Would it be correct to say that it would be almost impossible for you to carry on your business if you had to rely on European ammunition?

A. It would be impossible; yes, sir. Firstly, because the variety is not there. The companies bring in shotgun shells. In Canada there are four: skeet ammunition, field ammunition, heavy load and magnum.

Q. When you are talking of those four types are you referring to shotgun shells?

A. Yes. Only the one grade has ever been imported into Canada from Europe.

Q. Do you know if they have the other grades?

A. No, sir.

Q. While we are on that topic, would you say that for the most part American and Canadian ammunition are much similar in loads and sizes and various other features that make up the difference between one type of ammunition and another? Are they interchangeable? Can you get the four types of ammunition you mentioned in the United States?

A. Oh yes.

Q. And generally speaking for the other types of ammunition that are available in Canada, are there also similar types available in the United States?

A. Yes, sir.

Q. And are you aware whether for the other types of ammunition other than shotgun shells that the

various loads are also available in the United Kingdom and Europe?

A. No, sir, they are not. They make European calibers; we use American calibers.

Q. Would you say the standard type of ammunition manufactured in the United Kingdom and Europe is not really adaptable for Canadian purposes?

A. Only a small percentage of it.

Q. One other aspect of this: Would you say American ammunition is as reliable as Canadian ammunition?

A. Yes."

(Evidence, pp. 27-28)

In summary, it appears that the higher cost of American ammunition in Canada and the lack of comparability and consumer acceptance of European ammunition have resulted in all but a very small part of the ammunition requirements of the Canadian public being supplied by C.I.L. ammunition. Canadian Industries Limited has indicated that its operations have been conducted so as to enable its Ammunition Division to secure the largest possible share of the domestic market. To achieve this result it has kept its prices for most lines well below the level which the tariff establishes in the case of American ammunition and it has produced ammunition of a quality which is comparable with well-known American brands and, in the opinion of some users, superior in some respects.

CHAPTER V

REASONS OF CANADIAN INDUSTRIES LIMITED FOR NOT ADOPTING FREER SYSTEM OF DISTRIBUTION

1. Attitudes of Wholesalers and Retailers

Canadian Industries Limited has felt that its policy of distribution for ammunition has been regarded as satisfactory by wholesalers who have been accepted as distributors and by the retailers whom they supply with ammunition, and that the favourable attitudes of these groups have assisted in maintaining the largest possible sale of C.I.L. ammunition. In an effort to obtain an objective survey of the attitudes of those wholesalers and retailers distributing C.I.L. ammunition, Canadian Industries Limited engaged the services of the Canadian Institute of Public Opinion to conduct a sample survey across Canada. The Canadian Institute of Public Opinion has been making public opinion studies, market studies and general attitude studies throughout Canada for a number of years, and employs interviewers in all sections of the country to secure responses to questionnaires which are prepared and sent out from the head office. This course was followed in the conduct of the survey of wholesalers and retailers selling C.I.L. ammunition.

The purpose of the survey made by the Canadian Institute of Public Opinion was set out in the completed study as follows:

"The study was undertaken to obtain attitudes of wholesalers and retailers who handle ammunition, towards distribution policies of manufacturers, and to report their opinion of the effect of these policies on individual sales and service."

(Exhibit H-11)

In view of the much smaller number of wholesaler than retailers handling C.I.L. ammunition, a much higher proportion of the former was included in the survey. Fifty-three out of 117 direct C.I.L. ammunition accounts were interviewed and the retailers interviewed numbered 313 or about 3 per cent of the total number of ammunition retailers listed by Canadian Industries Limited. Because many general stores handling ammunition are in outlying areas, the proportion of hardware stores included in the sample for the survey was considerably greater than the proportion of such stores in the

actual total.

The first question in the survey of wholesalers and the distribution of replies were as follows:

"From your point of view, which of the following would you say was the better way to distribute nationally advertised hardware (and sporting) goods?"

...

	<u>Total</u>	
	<u>No.</u>	<u>Pct.</u>
ALL RESPONDENTS	53	100%
Have them freely available to all wholesalers who are interested in holding them	13	24.6
Limit the number of wholesalers to that required to service the market, in that area	39	73.5
Do not know	1	1.9 "

(Exhibit H-11)

In addition to reporting the direct responses, the study also sets out the comments made by each group. Of the 39 wholesalers who indicated a preference for limited distribution, the majority said that better service would be given to retailers. About the same number, including some mentioning service, said that limited distribution would assist in maintaining prices or keeping trade in the hands of "legitimate" distributors.

The second question sought replies as to the practice followed by manufacturers:

"Again, thinking of these two methods of wholesaling, which practice would you say was the most commonly used by manufacturers of nationally advertised products - are most products available to all wholesalers, or are most available to only a limited number of wholesalers?"

	<u>Total</u>	
	<u>No.</u>	<u>Pct.</u>
<u>ALL RESPONDENTS</u>	<u>53</u>	<u>100%</u>
Most available to all	23	43.4
Most available to only a limited number	28	53.8
Do not know	2	3.8 "

(Exhibit H-11)

It is of significance that only slightly more than 50 per cent of wholesalers interviewed expressed the opinion that most nationally advertised products are available to only a limited number of wholesalers.

The remaining questions in the survey of ammunition wholesalers invited answers to hypothetical situations in which the number of wholesalers distributing either a nationally advertised product or ammunition in the area was doubled. The Commission was not given any explanation why the questions were framed on the basis of doubling the number of distributors or what effect such a figure might have had on the replies in view of the situation, as stated by Mr. Smart of Canadian Industries Limited, that approximately three-quarters of the wholesalers in the classes of those interviewed are already distributing C.I.L. ammunition.

The first two questions in the series and the replies were as follows:

"If the number of wholesalers distributing a nationally advertised product were doubled, in your area, what effect do you think this might have on your sales - would you think your sales might decrease, or not?"

	<u>Total</u>	
	<u>No.</u>	<u>Pct.</u>
ALL RESPONDENTS	53	100%
Yes, sales might decrease	40	75.5
No, would not	10	18.9
Do not know	3	5.6 "

(Exhibit H-11)

"Now, just thinking of ammunition sales, if the number of wholesalers carrying ammunition were doubled, in this area, what effect do you think this might have on your sales of ammunition - would your sales decrease appreciably, or not?"

	<u>Total</u>	
	<u>No.</u>	<u>Pct.</u>
ALL RESPONDENTS	53	100%
Yes, sales might decrease appreciably	43	81.1
No, would not	9	17.0
Do not know	1	1.9 "

(Exhibit H-11)

It is rather surprising that ten wholesalers in the first instance and nine in the second instance did not consider that their sales would decrease appreciably if the number of wholesalers handling the same products in the same area was doubled.

The next question dealt with total sales of ammunition in an area with twice the number of wholesalers:

"What effect do you think doubling the number of wholesalers might have on total ammunition sales in this area? - Do you think they would increase, or decrease?"

	<u>Total</u>	
	<u>No.</u>	<u>Pct.</u>
ALL RESPONDENTS	53	100%
Increase	4	7.5
Decrease	9	17.0
Stay about the same	39	73.6
Do not know	1	1.9 "

(Exhibit H-11)

The final question on which wholesalers were asked to express an opinion was as follows:

"How do you think a doubling of the number of wholesalers carrying ammunition would affect your own sales effort - would you continue your time and effort in sales promotion at the present level, increase it, or would you have to cut down on your sales efforts, as far as ammunition is concerned? "

	<u>Total</u>	
	<u>No.</u>	<u>Pct.</u>
ALL RESPONDENTS	53	100%
Continue at present level	22	41.5
Increase	11	20.8
Decrease	20	37.7 "

(Exhibit H-11)

It will be noted that in reply to this hypothetical question less than 40 per cent of those replying thought that they would decrease their sales effort with ammunition if the number of distributors was doubled, while about 20 per cent thought they would increase their efforts to sell ammunition.

The questions on which retailers were asked to express opinions in the survey dealt with the type of wholesaler with which the retailer preferred to deal, the kind of service and assistance given by the wholesaler and the position which sales of ammunition had in the retailer's business.

Without reviewing the replies to the retailers' questionnaires in detail the following general results may be mentioned:

Over 70 per cent of the retailers interviewed said that they preferred to purchase nationally advertised products from wholesalers who carry complete lines of goods rather than those who specialize in certain lines. The large majority of retailers said that they purchase mainly from general line wholesalers and somewhat more than half thought that they received better service from this type of wholesaler. The general consensus of replies appeared to be that about the same type of service was given by the wholesaler in the sale of ammunition as in the sale of other nationally advertised goods. Such an opinion would be expected as the general line wholesaler would normally have his salesmen engaged in handling all the lines dealt in so that an order would be taken from a retailer at the one time covering all the products he wanted. The large majority of retailers thought that they would be no better served if the number of ammunition wholesalers was increased and that there are sufficient ammunition wholesalers in their area. While over 70 per cent of the retailers thought that the ammunition wholesaler was helpful in assisting the retailer in maintaining stock control and selecting types of ammunition, 23 per cent thought that the wholesaler was not too helpful in such matters. Eighty per cent of the retailers interviewed said that sales of ammunition formed quite a small part of their total annual sales.

2. Canadian Industries Limited Considers it is the Best
Judge of the Most Effective Means of
Distributing Ammunition

It was the Company's contention that its many years of experience in the ammunition business rendered its management the best judge of the economic desirability of adding to the number of wholesale ammunition outlets in an area.

Although the handling of ammunition forms a relatively small part of the business of most wholesalers, Canadian Industries Limited believes that the acceptance of additional wholesalers without regard to the needs of the market would adversely affect the sales of C.I.L. ammunition. On this point Mr. Smart gave the following evidence:

"Q. Would you elaborate, Mr. Smart, on the reasons why you believe -- I take it from your previous evidence you do believe -- that a less restrictive, and I use that word neutrally again, policy in taking on distributors may lessen your total sales?

A. Well, I think the point here is that, as I mentioned this morning, that the wholesale house is an extension really of our selling effort; that the wholesale house has to be interested in carrying ammunition and has to feel assured or to assure themselves by putting the effort which is necessary to provide the service that we want done, and will and can sell in sufficient volume for them to deem ammunition is a worthwhile product to be pushing.

In other words, if we have more jobbers than we need, the amount of business is not going to come up. We cannot create business by creating jobbers. The business is successful and remaining the same for any particular area in any particular year, so what we would be doing by adding jobbers as jobbers requested it rather than as we deemed the needs of that area required, would be to spread a fixed quantity over a larger number of people. The result could easily be that individual firms who previously had been satisfied with ammunition as something which was worthwhile spending time on, they would take the reverse attitude, that it is something which is too small for us. What we can get from this effort is not commensurate with what the effort costs us. They would slacken off in their effort.

If they slacken off, it is our firm conviction that the retailers stocks and the variety, too, will not be what the public wants, and as a result our overall sales will suffer.

Q. But would not they have, would not the ordinary distributor have many other items in his inventory that made up just as small a proportion of the whole inventory as shells would?

A. He would have and he gets exactly the same treatment from the firms manufacturing other items as he gets from us. These other firms may be in active competition. They find the same limitations

are necessary. They cannot give their wholesale distributorships broadcast. They definitely limit them, in the sense to which you are referring. They select, in other words, the individual houses representing them at wholesale level.

Q. Take it from the standpoint of the wholesalers. I am suggesting that an average wholesaler, having regard to the fact that he is able to mix hardware and sporting goods wholesale, or at least a very general line of sporting goods, that his inventory will be made up of a very large line of individual items?

A. Yes.

Q. Now, is it not to his advantage to push all of those items?

A. Oh, yes. I am saying his attitude towards it is determined by what he knows or believes to be the possibility of revenue which he may get for himself by the effort he puts in it. If there are too many people in it, he obviously cannot get the same kind of revenue, and therefore he is not prepared to spend as much time on that item.

The individual salesmen going out from the wholesale firm, they get directions from their sales manager as to what should be pushed or what should not be pushed. They have a host of things in a huge catalogue, actually. I would not expect ammunition to be pushed all year, but when we do expect it to be pushed is the time when it is necessary that the retail stock be at a level sufficient to meet consumer demands. The wholesaler, therefore, must have available to him sufficient business to warrant that sort of attention. We believe quite firmly that he will only display that sort of attention if he has a real hope of getting a worthwhile return."

(Hearing, pp. 141-43)

3. General Line Wholesalers Considered Most Effective Type of Ammunition Distributor

In addition to controlling the number of distributors of C.I.L. ammunition in each area, Canadian Industries Limited has confined distribution of ammunition, in the main, to general line wholesale hardware and general line wholesale sporting goods firms or to firms combining the two types of business. Mr. Smart gave the following explanation for the selection of these classes of wholesalers as distributors of ammunition:

"A. The reasons can be expressed basically this way: Our efforts in selecting wholesale representation are to keep that representation which is most acceptable to the firms who sell at the retail level. We know very definitely from information which we have gathered that the retail establishment prefers to buy from firms where a larger variety of the items which the retail firm sells may be purchased.

In other words, I think it can be explained in this way, that they have a day in which to work. Their profits are determined by their sales efforts, and when they are purchasing or interviewing agents or representatives of wholesale houses, they are not producing revenue. Their ability to buy sharply, perhaps, is that they like to have the agents calling on them be in a position to supply a wide variety of the things they sell. We firmly believe that the firm which has a broad coverage definitely gets a better reception at the retail level than does the man from a specialty house."

(Hearing, pp. 145-46)

4. Canadian Industries Limited Does Not Favour Distribution of Ammunition outside Hardware, Sporting Goods and General Stores

Canadian Industries Limited does not like its wholesale distributors to supply ammunition to other merchants for purposes of resale to retailers because of the possibility that the intermediate dealer or sub-account will not confine the sales of ammunition to the classes of retailers considered most desirable outlets by Canadian

Industries Limited.

Mr. Smart gave the following evidence:

"A. . . . We have a very definite desire to see that the type of retail outlets we have selected are limited outlets. The purpose of it is simply that we want our product carried at retail level the entire year around. The profitable period in handling ammunition is, obviously, the season immediately prior and the early part of the shooting season, and a great many types of retail outlet would be very happy to grab off the ammunition sales immediately prior to the shooting season and forget them the balance of the year.

Well, that neither serves our purpose as manufacturers and sellers or serves the purpose of the consumer by having it available, so what we try to maintain is retail outlets the people who will keep in stock all the year round our products. Therefore, we do not like to have sub-accounts, where we have no contact with them at all; they are beyond our influence in the sense that our people are not calling on them. They are not customers of ours. They may think they should sell to any account that they can make a sale."

(Hearing, pp. 178-79)

Mr. Smart said that Canadian Industries Limited frowns on the sale of ammunition by garages and would not wish to see ammunition sold in supermarkets, although in the Southern United States such stores handle ammunition. His evidence included the following:

"A. The type of outlet we would definitely frown on -- when we refer to garages, we have had this type of situation arise, notably in the west. Prior to the hunting season, straight garages, no attempt at being sporting goods stores who buy all types of ammunition and have it there, would buy ammunition and that was definitely, we felt, to the injury of the general store or hardware store because that straight garage man is only interested in selling shot shells when shot shells are in demand. Our aim is to see that the people at retail who are handling

our stuff get the cream as well as the milk over the entire year; that is the sole purpose in not wanting that type of sale.

...

BY THE CHAIRMAN:

Q. I was wondering, with regard to your classifications, what your attitude is with regard to supermarkets which are now, in many instances, developing a wide range of things in addition to groceries?

A. We have no supermarket listings. In the southern United States they have, for many years, had ammunition in supermarkets. I know we would not want it for the very reason that these people would tend to do just what the garage type of fellow does, take the cream off and leave the balance of the year go dry.

In other words, we want to have our products available all year round. There is a continuing demand for certain types of ammunitions throughout the year. We will not get that unless a man has, in this instance the retailer, sufficient interest in the earnings on the darn thing to get that; his interests are weighted more sharply than any other man's when the heavy demand occurs at the shooting season.

Q. I was just thinking that the supermarket seems to be getting into a multiplicity of lines that would tend to bring them into line with the general store or department store?

A. Yes, they are broadening quite steadily.

Q. I was wondering whether that development was affecting your position with regard to them at all?

A. It has not come up and we would hope it will not."

5. Wider Wholesale Distribution of C.I.L. Ammunition Would Tend to Increase Some Costs

It was the opinion of Canadian Industries Limited that a substantial increase in the number of wholesale accounts would tend to increase the costs of manufacturing and shipping ammunition. The possible effects were referred to only in general terms as indicated in the following excerpts from the evidence of Mr. Smart on cross-examination:

"Q. Is it your view that a freer distribution policy, that is the recognition of additional accounts, would increase your manufacturing or distributing costs?

A. They would tend to increase some of our costs, obviously, because if we have to service -- not service, I mean supply, invoice and ship the same amount to a larger number of accounts, that automatically would tend to increase our costs. I think that is axiomatic.

...

A. . . .

Now, to the extent that our manufacturing, that is the actual producing of the ammunition, is being affected, it is not as clear and therefore I am tending to avoid it. If we have our orders in promptly in the year, it permits us to do a more intelligent scheduling of production, as you can imagine. I say it would be very difficult for me to produce figures to back that statement up. If we had a great deal more wholesalers, we would have more difficulty in scheduling, in all likelihood, because they all tend to be in at the same time, and our production lines have to be gauged on the information which we get, which is supplied by orders received. The tendency would be, inevitably, to raise our costs; that is true. If you go to the extreme, *reductio ad absurdum*, had we one customer, it would tend to minimize the cost. However, you go in the other direction and you tend to maximize the costs."

(Hearing, pp. 167-68)

CHAPTER VI

APPRAISAL OF MANUFACTURING POSITION AND DISTRIBUTION POLICY OF THE AMMUNITION DIVISION OF CANADIAN INDUSTRIES LIMITED

1. Canadian Industries Limited as Sole Canadian Manufacturer of Ammunition

It was argued before the Commission by counsel for Canadian Industries Limited that the situation of the Company as the only manufacturer of ammunition in Canada did not constitute a "merger, trust or monopoly" within the definition contained in the Combines Investigation Act. Counsel submitted that Canadian Industries Limited had no power to exclude anyone from the market and had made no effort to exclude anyone from the Canadian market. In fact, one company affiliated with a manufacturer of ammunition in France is now reported as preparing to engage in the distribution of imported ammunition in Western Canada and to be considering undertaking some stages of manufacturing in Canada. A considerable number of years ago two other companies had manufactured ammunition in Canada for limited periods and had given up such operations for their own reasons. The position of Canadian Industries Limited as sole Canadian manufacturer has not been arrived at through the acquisition of competitors but, in the submission of counsel, is an involuntary and accidental one brought about because of economic factors which have dictated up to now that one ammunition plant is sufficient for the Canadian market.

In the view of the Commission the definition of a "merger, trust or monopoly" given in the Combines Investigation Act does not involve aspects of design or intent but merely a question of fact. Only one section of the definition of "merger, trust or monopoly" is involved in the present inquiry. This part defines a "merger, trust or monopoly" as one or more persons "who either substantially or completely control, throughout any particular area or district in Canada or throughout Canada the class or species of business in which he is or they are engaged".

The fact is that Canadian Industries Limited has 95 per cent or more of the ammunition business in Canada. While anyone is technically free to enter the business of manufacturing ammunition in Canada the evidence indicates (a) that the volume of production significantly affects unit costs of manufacture, and (b) that the investment necessary to provide an ammunition plant capable of producing the types of ammunition in popular demand would be of considerable amount.

The replacement value of the ammunition plant of Canadian Industries Limited was estimated at \$8 million or \$10 million. It was also estimated that the comparable investment for shot gun shells alone would be about one-half the foregoing figures. While no evidence was given as to the minimum investment which might be required to establish an economic factory for the production of shot gun shells or a wider range of ammunition, it may be assumed that a substantial amount would be involved.

Canadian Industries Limited controls its own production of ammunition, and as its output constitutes 95 per cent of the ammunition marketed in Canada it follows that Canadian Industries Limited substantially controls the business of manufacturing ammunition in Canada. That its control may be open to actual and potential influences of various kinds may affect the decision of Canadian Industries Limited with respect to the use of its control of the ammunition business, but they do not remove it.

The existence of Canadian Industries Limited as the sole manufacturer of ammunition in Canada is, in the opinion of the Company, dependent upon tariff protection. This is not to say that the tariff is responsible for there being only one manufacturer in Canada. This condition has been attributed to the size of the Canadian market and to the situation, which is apparent in a number of countries, that a large-scale plant, relative to the size of the market, is the only type which can be operated successfully.

While Canadian Industries Limited regards tariff protection as an essential condition for its business of manufacturing ammunition, it has not relied on the customs tariff alone to establish its position as the supplier of all but a very small part of the ammunition used in Canada. The Company has felt that Canadian users of ammunition are kept fully informed of the qualities of ammunition available in the much larger market in the United States through the use of American-made guns and the circulation of American periodicals in Canada carrying both advertising and sporting and hunting information. Under such conditions, Canadian Industries Limited appears to have considered that if Canadian and American ammunition were available at the same or closely approximating prices in Canada, the widely advertised American ammunition might sell on a substantial scale. Canadian Industries Limited is unable to measure exactly the extent to which its ammunition must sell below the prices of imported American ammunition in order to ensure that C.I.L. ammunition supplies the bulk of the Canadian market. Mr. Smart made the following comments:

"Q. You are saying, in effect, that you could raise your prices, consequently today, without incurring the risk of additional imports?

A. No, I did not say that. I say the point at which I may raise my price and not suffer by importation is an unknown factor, really. You cannot offset the fact that there is a wide reading of American advertising material in Canada. The Canadian hunter or shooter, whether it be the game shooter or the target shooter, is completely familiar with the name of Remington and Winchester. He knows their guns and he knows their products are good, so he would be inclined to purchase. He may be influenced by that. There is no sharp line which may be drawn above which or below which you cannot go without sacrificing volume on the market; we do not know that particular point."

(Hearing, p. 156)

And:

"A. . . .

There is no thought that we could compete without tariff protection with the big producers in the United States. We would be out of business. There is no question about that. If we do not retain the bulk of the Canadian business; if you reduce the tariff to the point where American products can be sold, and the benefit that they have now from their advertising coming into the country, the knowledge that the Canadian shooter has of the American names because those names I mentioned yesterday, they are familiar to him because they are associated with guns; I say he is familiar with Remington and Winchester guns which are popular in Canada. They are the biggest sellers in Canada, so the name is known, and they are satisfied with the quality of the product that those two firms produce in guns, so it would not be difficult to sell American ammunition in this country because of the high regard they presently hold for that product and that name."

(Hearing, pp. 196-97)

Canadian Industries Limited, therefore, has endeavoured to manufacture ammunition equal in quality or, if possible, superior to the leading American brands of ammunition and for the lines which

it could produce in large volume to keep its prices well below the landed cost in Canada of similar lines which could be imported from the United States. The Company rightly contends that it has not taken advantage of the tariff to raise its prices of ammunition to the duty-paid level of imported American ammunition but, at the same time, it contends that the rate of customs duties could not be reduced to the average level of protection which is used without depriving the Company of a large part of the Canadian market on which it is dependent for the continued operation of its ammunition plant.

Canadian Industries Limited does not consider that it has any responsibility in connection with the distribution of ammunition which arises out of its position as the sole manufacturer in Canada. Mr. Smart stated his view of the Company's position as follows:

"BY MR. WHITELEY:

Q. Do you consider that C.I.L., as the sole manufacturer of ammunition in Canada, is in any different position to other manufacturers who are not in that position?

A. In what way do you mean?

Q. Well, in regard to its policy of selling?

A. Our policy of selling is not a thing we associate with our sole manufacturing position.

Q. You do not consider that ---

A. I do not think we are taking any advantage or have any policy associated in any way with our position of sole manufacturer.

Q. The point to which I was referring was whether you considered you had any different responsibility from the manufacturer who is in competition with others?

A. We have this responsibility, to see that the products which we make are as good as can be produced otherwise outside the country. We are the sole suppliers, and we want to see that our Canadians get products as good as other people can get and at prices which other people pay with respect to the costs of manufacture in other countries.

Q. Do you think that differs from the manufacturer in competition with others?

A. Perhaps not."

(Hearing, pp. 200-01)

In the opinion of the Commission this attitude on the part of Canadian Industries Limited fails to take into account three factors on which the Company places such emphasis. First, that the economies of scale in the manufacture of ammunition in relation to the size of the Canadian market have resulted in one plant being sufficient to supply the Canadian market; secondly, that tariff protection is necessary for the manufacture of ammunition in Canada, and thirdly, that there must be a minimum of imports of ammunition if the ammunition business is to be carried on successfully in Canada. The Commission considers that these conditions place Canadian Industries Limited in a different position with respect to the distribution of ammunition to that of a manufacturer seeking to distribute his product in active competition with other manufacturers of the same product in Canada and, perhaps, in active competition with imported goods as well.

2. Policy of Canadian Industries Limited in Controlling Outlets for Ammunition

Canadian Industries Limited believes that its policy of restricting its sales of ammunition to a limited number of wholesalers in each area and of encouraging its wholesale distributors to supply C.I.L. ammunition to designated kinds of retailers secures the maximum sales of C.I.L. ammunition and provides the best possible service to retailers and to the users of ammunition. In circumstances where one manufacturer under its policy supplies about 95 per cent of the market in Canada and has followed the same policy in its essential aspects for a great many years, there are no objective standards available by which to appraise the results of the particular policy which has been followed. No other methods have been tried by Canadian Industries Limited in any recent period and any other ammunition which is distributed in Canada occupies a very minor part of the market. The only modification in its distribution policy made by Canadian Industries Limited was the opening up of its ammunition list to additional hardware and sporting goods wholesalers for one year, 1956-57.

Mr. Smart was asked whether under a freer system of distributing ammunition the market would not tend to select those distributors who could build up a volume of business necessary for effective distribution. He replied as follows:

"A. In the long-term view, I presume that could be so, but there would be an upset while that long-term view was being established.

Q. I presume that would be part of the competitive process?

A. I say to you it is difficult to categorically deny that the market does not do a selection job as you infer it would do, but the immediate effect of taking on everybody who would think they might handle ammunition would be very disturbing to our merchandising policies and practices. Mind you, I am aiming only at seeing that we get the maximum volume of sales, and we see to it that our products are available at all times to the public who wants to use them."

(Hearing, p. 205)

While it is not possible to make objective tests of the effectiveness of the distribution policy of Canadian Industries Limited as compared with some other possible system of distribution, there are features in the pattern of distribution which has developed which may be considered in relation to the essential conditions underlying the Company's policy.

One point stressed by the Company is the need to allow each distributor sufficient volume of business so that he will promote actively the distribution of C.I.L. ammunition. This point was brought out in the examination of Mr. C. A. Gobeil, President, Lewis Brothers Limited, which conducts a large wholesale hardware business in Eastern Canada and is a large distributor of C.I.L. ammunition. Mr. Gobeil was called to give evidence on behalf of Canadian Industries Limited and the following is an excerpt from his testimony:

"Q. If any substantial number of additional wholesalers were appointed in the area by C.I.L. for the sale of ammunition, what view would your company take of it and what might you do about it, if anything?

A. Well, if there were too many distributors of C.I.L. ammunition it would become uninteresting for us as a distributor.

Q. You say 'uninteresting'?

A. Yes, we would look for some other outlet.

Q. You say some 'outlet'?

A. We would look to some line from abroad; we would try to get some from abroad."

(Hearing, p. 294)

It may be assumed that as wholesalers differ in size and nature of operations so their views would differ as to what would be a satisfactory volume of sales of ammunition. In the case of Lewis Brothers Limited, Mr. Gobeil stated that the firm carried between 40,000 and 50,000 articles, purchased from 700 to 1,000 suppliers (Hearing, p. 295). It is obvious that there would be considerable variation in the volume of sales of particular articles when such a large number are handled.

The multiplicity of products which the general wholesale hardware firm carries means that the hardware salesman when calling upon a retail hardware or sporting goods store usually takes orders for a variety of goods. This has the advantage, which was pointed out by representatives of Canadian Industries Limited, that the wholesale hardware salesman is active in soliciting business from the retail trade and keeps in fairly close touch with retail accounts. On the other hand, as was pointed out by the Quebec representative of the C.I.L. Ammunition Division, the efforts of the hardware salesman must be spread over the 35,000 or 40,000 lines which are included in the category of a large wholesale hardware firm (Hearing, p. 447), so that the salesman's time must be limited with respect to individual articles.

It will be seen from Table VII that, in 1956, the ammunition purchases of 59 of the 87 distributors of C.I.L. ammunition were in the class of less than \$50,000 and that 16 distributors were in the class buying less than \$10,000. It will also be recalled that the number of direct shipping accounts in 1956 was 147 so that in the case of those distributors with branches the purchases of ammunition by individual outlets would appear in lower-volume brackets if separately tabulated. It is clear that some wholesale merchants have continued to stock ammunition even when the volume of business done in this line is small, and while the wholesalers with small purchases of ammunition may also be among the smaller firms in total business it is apparent that there must be considerable differences in the amount of ammunition business even among the larger wholesale firms.

That wholesale distributors differ in their aggressiveness in promoting sales of ammunition has been made clear in the evidence of Mr. Smart quoted in Chapter II of this report. In his evidence Mr.

Smart pointed out that purchases of ammunition by the six direct accounts deleted between 1952 and 1956 had averaged less than \$4,000 per account, whereas the average purchases of the 15 direct accounts added averaged \$27,000 in terms of 1952 dollars. Although the 15 new accounts constituted about 10 per cent of the total number of direct accounts, their purchases accounted for 1/3 of the total growth of sales of ammunition by Canadian Industries Limited in the period.

Reference should also be made to the evidence reviewed earlier regarding the distribution of ammunition through what were described as semi-wholesalers or semi-jobbers. These are firms which have not been recognized by Canadian Industries Limited as direct accounts but which purchase ammunition from a recognized distributor for resale to retail stores. The evidence indicates that some semi-wholesalers handle C.I.L. ammunition in larger volume than some of the smaller direct C.I.L. distributors. It seems possible that some of these semi-wholesalers if they were able to purchase ammunition on as favourable terms as direct accounts would be as aggressive in promoting the sale of ammunition as some of the new distributors accepted by Canadian Industries Limited in the period from 1952 to 1956.

It has been stated by Canadian Industries Limited that not all the ammunition distributors on its list meet the definitions of wholesale hardware and wholesale sporting goods firms which the Company has adopted. Some exceptions were attributed by the Company to historical reasons, but other firms which do not come within the definitions are the four or five department stores and mail order houses which Canadian Industries Limited has accepted as direct accounts. These organizations represent a different type of distribution than the traditional wholesaler-retailer method. The positions of the department stores and mail order houses have, of course, been established in the field of distribution for a great many years but in their period of development they were regarded with concern by the regular types of wholesale and retail dealers. Although Canadian Industries Limited has been prepared to extend recognition to the department stores and mail order houses now included in its list it has applied the definition of wholesale hardware and wholesale sporting goods firms to reject other types of distributors, such as automotive accessories and specialized sporting goods distributors, which have already established themselves as effective merchandising organizations for varied products extending, in the case of the former, widely beyond the automotive field. One of these organizations has already become a substantial distributor of C.I.L. ammunition even though it has been unable to make purchases directly from Canadian Industries Limited. It would appear, therefore, that the definitions used by Canadian Industries Limited in classifying the trades from which it wishes to select distributors fall short of embracing the actual types of trade through which ammunition may be distributed effectively to retail outlets.

and to the public.

3. The Case of Peterborough Guns Limited

The situation with respect to the refusal of Canadian Industries Limited to accept Peterborough Guns Limited as a distributor of C.I.L. ammunition has been reviewed earlier. In his evidence already quoted, Mr. Smart said that the application of Peterborough Guns Limited was rejected "'on the grounds that a wholesaler handling only guns and shooting accessories did not qualify as a sporting goods wholesaler. A sporting goods wholesaler to the Company means a wholesaler carrying a broad line of sporting goods who by reason of that fact would have more business with and a readier acceptance by the retailers'" (Hearing, p. 54). Mr. Smart later said:

"A. . . .

'It should be mentioned that some thirty other gun houses in the same category as Peterborough Guns Limited are known to exist in Canada. If C-I-L had accepted the wholesale services offered by Peterborough Guns it could not on the view of the Director have justifiably refused any of the other thirty gun houses had they been otherwise qualified and applied for recognition. Canadian Industries Limited's list of ammunition wholesalers would then have been subject to a potential numerical increase of 35% in a new type of outlet which if it had materialized would have seriously disrupted the distribution system carefully built up over the years.'"

(Hearing, p. 55)

The question whether there are other firms in the same category as Peterborough Guns Limited, as suggested in the excerpt from the evidence of Mr. Smart quoted above, was examined during the appearance of Mr. A. G. Elliott, Sales Manager, Ammunition Division, Canadian Industries Limited. Mr. Elliott described the kinds of business conducted by several firms included in the 30 gun houses referred to by Mr. Smart. His evidence then continued:

"Q. Now, I do not want to keep going down this list indefinitely. I just point out to you that in the four cases you have given me, they really do not contradict the statement in the evidence that

Peterborough Guns are the only house dealing exclusively in sporting firearms in Canada. Now, shall we continue this list or are you satisfied your statement was, let us say, a bit too general?

A. I would say my statement was too general because of the statement 'exclusively'. I think I qualified my remarks to the effect that if they did not already have a line of firearms they were readily obtainable, some such wording as that. What I am endeavouring to infer is that manufacturers are prepared to supply or would be prepared to supply many of these outlets with firearms.

Q. All I want to get cleared up is, so far as you are aware, this statement in the evidence to the effect that at the present time this house is the only house carrying sporting firearms exclusively stands correct?

A. Yes, I would say the word 'exclusively' is the term in that particular question.

Q. Yes, at all times the word 'exclusively' is there.

BY MR. WHITELEY:

Q. Perhaps while we are on that point we might cover the other aspect, as to wholesale. Are there any other firms to your knowledge that deal exclusively wholesale in some type of shooting equipment?

A. That is as opposed to wholesale-retail?

Q. The ones you mentioned all make sales at retail?

A. I would say the major part of them would be wholesale-retail.

Q. Are there any others that are wholesale exclusively?

A. Yes, I would think there would be more of the type of agency firm, for example, the Canadian Sauer who handle only the German Sauer gun, which is strictly a wholesale operation, as I understand it. They sell to the retail stores, and they also sell to the wholesale house. I

think they sell to both."

(Hearing, pp. 393-94)

The evidence satisfies the Commission that at the time of its application as a distributor of C.I.L. ammunition Peterborough Guns Limited was being established as a purely wholesale house to deal exclusively in sporting firearms and related products in Canada and thus was distinguishable from the gun houses which carried on a wholesale-retail business.

The reason why Canadian Industries Limited did not include specialist wholesale hardware and sporting goods houses among the groups from which applications for the distribution of C.I.L. ammunition would be considered was stated, as follows, in the evidence of Mr. Smart already quoted:

"A. The reasons can be expressed basically this way: Our efforts in selecting wholesale representation are to keep that representation which is most acceptable to the firms who sell at the retail level. We know very definitely from information which we have gathered that the retail establishment prefers to buy from firms where a larger variety of the items which the retail firm sells may be purchased.

In other words, I think it can be explained in this way, that they have a day in which to work. Their profits are determined by their sales efforts, and when they are purchasing or interviewing agents or representatives of wholesale houses, they are not producing revenue. Their ability to buy sharply, perhaps, is that they like to have the agents calling on them be in a position to supply a wide variety of the things they sell. We firmly believe that the firm which has a broad coverage definitely gets a better reception at the retail level than does the man from a specialty house."

(Hearing, pp. 145-46)

The survey made by the Canadian Institute of Public Opinion for Canadian Industries Limited (Exhibit H-11) indicated that about three-quarters of the retailers already handling C.I.L. ammunition stated that they generally preferred to deal with wholesalers

handling a wide range of products. This preference may be, in part, a reflection of the situation, also shown by the survey, that most retailers handling C.I.L. ammunition buy most of their supplies from general line wholesalers. In any case, the general preference of the retailers does not indicate the ability of individual wholesalers to distribute ammunition. The evidence shows that the annual volume of ammunition business done by individual distributors of C.I.L. ammunition varies greatly, from firms buying in less than carload quantities to those handling many carloads during the year. The fact must be that there are differences among specialized wholesalers in the volume in which they handle different products and that some might be much more effective distributors of ammunition than others if given the opportunity to engage in this business. In so far as the reception by the retailer is concerned, it is obvious that if the wholesaler engaged in selling firearms is to carry on business he must secure orders from retailers and that the addition of such a line as ammunition could be handled in connection with the solicitation of orders for the other lines handled.

On first approach it appears logical that the sale of ammunition could be associated suitably with the business of selling firearms for which ammunition is destined. It is contended by Canadian Industries Limited that such association does not offer commercial advantages to the manufacturer of ammunition, if the distributor is a specialist, for the reason already described. It was also suggested that the wholesaler specializing in the sale of firearms could not be of greater assistance than the general wholesaler in advising retailers on technical aspects of ammunition. It appears from the evidence of Mr. Pinard, Sales Representative of the C.I.L. Ammunition Division for the Province of Quebec, that a person who is a specialist in firearms is most likely to be able to assist the retailer on the technical aspects of ammunition and that there is now a trend toward specialization in the retailing of guns and ammunition. This evidence suggests that a wholesale house specializing in the sale of firearms could render greater service on technical features of ammunition than the general line wholesaler.

In the opinion of the Commission the refusal of Canadian Industries Limited to accept Peterborough Guns Limited as a distributor of C.I.L. ammunition was based on an arbitrary classification of wholesale trades which affords protection to historic channels of distribution without providing reasonable scope for exploring the effectiveness of other outlets. The Commission does not consider that the reasons given by Canadian Industries Limited justify the Company in refusing supplies of ammunition to Peterborough Guns Limited.

CHAPTER VII

CONCLUSIONS AND RECOMMENDATIONS

A. General Conclusions

1. For many years Canadian Industries Limited has been the sole manufacturer in Canada of non-military ammunition, which consists largely of sporting rifle and shot gun shells. Its ammunition has been satisfactory to the Canadian shooting public and has been sold generally at prices lower than the prices in Canada of comparable imported ammunition, although commonly higher than the prices of comparable ammunition in the country of manufacture. Canadian Industries Limited has actively promoted the sale of ammunition through advertising, the fostering of shooting clubs and in other ways and has increased its share of the Canadian market to 95 per cent or more from approximately 65 per cent 25 years ago.

2. The evidence does not show that Canadian Industries Limited has made any efforts to exclude any person from entering the business of manufacturing ammunition in Canada, and the Company's position as sole manufacturer does not result from the merging with or acquisition of other manufacturers of ammunition.

3. The manufacture of ammunition in Canada is protected by a customs tariff, and Canadian Industries Limited states that the manufacture of ammunition in Canada could not exist without tariff protection. In the view of the Company the economics of the Canadian ammunition market have dictated that up to the present one ammunition plant is enough for domestic requirements. It thus appears that Canadian Industries Limited is dependent upon the granting of tariff protection for the existence of its ammunition manufacturing business and occupies a monopoly position in the field because the Canadian market is not large enough for the economical operation of more than one plant.

4. During a very considerable period Canadian Industries Limited has exercised control directly over the wholesale distribution of its ammunition by strictly limiting the number of wholesaler distributors in each marketing area in Canada and by rigidly confining its acceptance of any new distributor to a few designated classes of trade. Canadian Industries Limited has also exercised control indirectly over the retail outlets for its ammunition by designating the classes of retail trade which it wished to have served by distributors and by designating classes of retailers to which it did not wish its ammunition to be supplied.

5. Canadian Industries Limited has refused to accept applications to distribute C.I.L. ammunition from firms coming within the classes designated by the Company when, in the opinion of the Company, the coverage by existing distributors was adequate. Canadian Industries Limited has also refused applications from firms not coming within the classes of qualified distributors as defined by the Company even though, in some cases, such firms have demonstrated an ability to distribute C.I.L. ammunition secured from other wholesalers buying directly from Canadian Industries Limited.

6. Canadian Industries Limited submits that its distribution policy is directed to maximize the sales of C.I.L. ammunition and that it is the best judge of the manner in which its ammunition should be distributed by wholesale and retail outlets. The Company submits further that even though it is the sole manufacturer of ammunition in Canada its position with respect to its policy of distribution is the same as that of a manufacturer who is in competition with others in the same field. The Commission believes that the situation is not the same, particularly when the sole manufacturer depends upon the tariff for existence. In such circumstances it becomes the more important that the limitation of competition at the manufacturing level which results from the operation of the tariff and the size of the Canadian market should not be extended by arbitrary private action to the distributive level.

7. If the Canadian market is only large enough for the operation of a single ammunition plant it is obvious that the grant of tariff protection will limit competition at the manufacturing level. Wholesale and retail distribution are, however, distinct economic functions performed by enterprises not financially related to the manufacturer. It is desirable that, for the benefit of the public, competition in distribution should be permitted to develop the most economical methods for the sale of ammunition, even though a monopoly exists in Canada at the manufacturing level.

8. In the opinion of the Commission the distribution policy of Canadian Industries Limited for ammunition imposes unnecessary and undesirable restrictions on the distribution of ammunition in Canada.

In the first place, the Company's distribution policy obstructs freedom of entry to the distribution of ammunition. It is generally recognized that an essential condition of a free enterprise economy is that entrepreneurs should have the freedom to engage in any activity in which they see prospects of conducting a profitable undertaking. Canadian Industries Limited has recognized this element at the manufacturing level because it has submitted that it has made no effort to exclude anyone from engaging in the manufacture of ammunition in Canada. In the case of distribution, however, the policy of Canadian Industries Limited excludes new entrants from engaging in the whole-

sale trade in its ammunition except when the Company decides to add a new distributor from the trade classes it considers qualified.

Secondly, the distribution policy of Canadian Industries Limited establishes a rigid pattern for the sale of ammunition in a fashion to restrict innovation and impede the possible development of new and more economical methods of distribution. Although Canadian Industries Limited contends that its long experience in the field of ammunition enables it to appraise the most effective methods for the distribution of ammunition, the fact is that under its rigid policy the public is not permitted to test out differing types of outlets and methods of merchandising and to show by its patronage which outlets it prefers.

The field of distribution in Canada has been marked particularly by the development of new types of outlets at the wholesale and retail levels of trade, by the introduction of new methods of merchandising and by new groupings of functions in merchandising concerns. Such developments have been possible because of the freedom of entry to the field of distribution both with respect to the kinds of products handled and the nature of the outlets through which the products are distributed. The policy of Canadian Industries Limited for ammunition seriously interferes with possible competitive developments in the distribution of this product.

Canadian Industries Limited has pointed to the acceptance of a new wholesale distributor in Western Canada under the temporary modification of its policy as indicating the reasonableness of its policy because the new entrant soon curtailed his purchases of ammunition. This example, in the opinion of the Commission, merely serves to show the efficacy of competitive marketing in leading those who can handle ammunition most effectively to continue in the business. While there may be some losses in firms entering fields in which they do not find it possible to succeed, this is an unavoidable feature of a competitive economy and such costs are greatly exceeded by the gains to the public through the development of more efficient methods of business under the spur of competition.

9. To sum up, the Commission is of the opinion that Canadian Industries Limited, as the sole manufacturer of ammunition in Canada under the protection of a customs tariff, has the responsibility of seeing that its distribution policy does not limit freedom of entry to the distribution of ammunition in Canada or impede the innovation and the testing of new methods or types of outlets for the sale of ammunition. In a competitive economy the public should have opportunity to demonstrate by its choice the services it desires and is willing to pay for and the types of outlets on which it wishes to bestow its custom.

B. Remedies

10. It is clear that in the absence of a protective tariff for ammunition, traders in Canada ready to engage in the distribution of ammunition and refused supplies by Canadian Industries Limited could readily secure acceptable lines of ammunition from sources outside Canada. On the other hand, Canadian Industries Limited states that without a protective tariff the manufacture of ammunition in Canada would not be commercially possible and that the size of the Canadian market dictates the operation of only one plant. In such circumstances the Commission believes that the grant of tariff protection should be conditional upon the adoption by the sole manufacturer of a distribution policy which conforms to the principles of a free enterprise economy.

11. The Commission recommends that the continuance of a protective tariff on ammunition should be conditional upon Canadian Industries Limited giving an undertaking that it will abandon the restrictive distribution policy it has followed in limiting the number of direct accounts. Further, that the Company will undertake not to restrict the sale of ammunition to defined classes of distributors. In other words, Canadian Industries Limited should undertake to supply legitimate requirements of solvent traders and allow the competition of the market and public choice to select those channels of distribution and types of outlets which will best meet the public needs, subject to such reasonable conditions as the Company may require as to quantities and varieties for purchase orders and as to stocking requirements for varieties and quantities of ammunition.

12. If Canadian Industries Limited refuses to give an undertaking of this nature the Commission recommends either (a) that the tariff be reduced so that traders refused supplies of ammunition by Canadian Industries Limited can import comparable lines of ammunition on a competitive basis with recognized C.I.L. distributors, or (b) that traders refused supplies of ammunition by Canadian Industries Limited and importing ammunition be granted a drawback of customs duties to an extent which will make their landed costs equivalent to the delivered price of C.I.L. ammunition to their competitors.

(Sgd.) C. R. Smith
Chairman

(Sgd.) A. S. Whiteley

Member

